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## SCHEDULES

### [<sup>F1</sup>SCHEDULE A1

#### APPLICATION OF TAPER RELIEF

##### Textual Amendments

- F1** Sch. A1 inserted (with effect in accordance with s. 121(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 121(2), [Sch. 20](#)

##### *Introductory*

- 1 (1) Section 2A shall be construed subject to and in accordance with this Schedule.
- (2) The different provisions of this Schedule have effect for construing the other provisions of this Schedule, as well as for construing section 2A.

##### *Period for which an asset is held and relevant period of ownership*

- 2 (1) In relation to any gain on the disposal of a business or non-business asset, the period after 5th April 1998 for which the asset had been held at the time of its disposal is the period which—
  - (a) begins with whichever is the later of 6th April 1998 and the time when the asset disposed of was acquired by the person making the disposal; and
  - (b) ends with the time of the disposal on which the gain accrued.
- (2) Where an asset is disposed of, its relevant period of ownership is whichever is the shorter of—
  - (a) the period after 5th April 1998 for which the asset had been held at the time of its disposal; and
  - (b) the period of ten years ending with that time.
- (3) The following shall be disregarded for determining when a person is to be treated for the purposes of this paragraph as having acquired an asset, that is to say—
  - (a) so much of section 73(1)(b) as treats the asset as acquired at a date before 6th April 1965; and
  - (b) sections 239(2)(b), 257(2)(b) and 259(2)(b).
- (4) Where the period after 5th April 1998 for which an asset had been held at the time of its disposal includes any period which, in accordance with any of paragraphs 10 to 12 below, is a period that does not count for the purposes of taper relief—
  - (a) the qualifying holding period of the asset shall be treated for the purposes of section 2A as reduced by the length of the period that does not count or, as the case may be, of the aggregate of the periods that do not count; and
  - (b) the period that does not count or, as the case may be, every such period—

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- (i) shall be left out of account in computing for the purposes of sub-paragraph (2) above the period of ten years ending with the time of the asset's disposal; and
  - (ii) shall be assumed not to be comprised in the asset's relevant period of ownership.
- (5) Sub-paragraphs (1) to (3) above have effect subject to the provisions of paragraphs 13 to 19 below.

*Rules for determining whether a gain is a gain on the disposal of a business asset or non-business asset*

- 3 (1) Subject to the following provisions of this Schedule, a chargeable gain accruing to any person on the disposal of any asset is a gain on the disposal of a business asset if that asset was a business asset throughout its relevant period of ownership.
- (2) Where—
- (a) a chargeable gain accrues to any person on the disposal of any asset,
  - (b) that gain does not accrue on the disposal of an asset that was a business asset throughout its relevant period of ownership, and
  - (c) that asset has been a business asset throughout one or more periods comprising part of its relevant period of ownership,
- a part of that gain shall be taken to be a gain on the disposal of a business asset and, in accordance with sub-paragraph (4) below, the remainder shall be taken to be a gain on the disposal of a non-business asset.
- (3) Subject to the following provisions of this Schedule, where sub-paragraph (2) above applies, the part of the chargeable gain accruing on the disposal of the asset that shall be taken to be a gain on the disposal of a business asset is the part of it that bears the same proportion to the whole of the gain as is borne to the whole of its relevant period of ownership by the aggregate of the periods which—
- (a) are comprised in its relevant period of ownership, and
  - (b) are periods throughout which the asset is to be taken (after applying paragraphs 8 and 9 below) to have been a business asset.
- (4) So much of any chargeable gain accruing to any person on the disposal of any asset as is not a gain on the disposal of a business asset shall be taken to be a gain on the disposal of a non-business asset.
- (5) Where, by virtue of sub-paragraphs (2) to (4) above, a gain on the disposal of a business asset accrues on the same disposal as a gain on the disposal of a non-business asset—
- (a) the two gains shall be treated for the purposes of taper relief as separate gains accruing on separate disposals of separate assets; but
  - (b) the periods after 5th April 1998 for which each of the assets shall be taken to have been held at the time of their disposal shall be the same and shall be determined without reference to the length of the periods mentioned in sub-paragraph (3)(a) and (b) above.

*Conditions for shares to qualify as business assets*

- 4 (1) This paragraph applies, in the case of the disposal of any asset, for determining (subject to the following provisions of this Schedule) whether the asset was a

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business asset at a time before its disposal when it consisted of, or of an interest in, any shares in a company ("the relevant company").

- (2) Where the disposal is made by an individual, the asset was a business asset at that time if at that time the relevant company was a qualifying company by reference to that individual.
- (3) Where the disposal is made by the trustees of a settlement, the asset was a business asset at that time if at that time the relevant company was a qualifying company by reference to the trustees of that settlement.
- (4) Where the disposal is made by an individual's personal representatives, the asset was a business asset at that time if at that time—
  - (a) the relevant company was a trading company or the holding company of a trading group; and
  - (b) the voting rights in that company were exercisable, as to not less than 25 per cent., by the deceased's personal representatives.
- (5) Where the disposal is made by an individual who acquired the asset as legatee (as defined in section 64) and that time is not a time when the asset was a business asset by virtue of sub-paragraph (2) above, the asset shall be taken to have been a business asset at that time if at that time—
  - (a) it was held by the personal representatives of the deceased; and
  - (b) the conditions in sub-paragraph (4)(a) and (b) above were satisfied.

*Conditions for other assets to qualify as business assets*

- 5 (1) This paragraph applies, in the case of the disposal of any asset, for determining (subject to the following provisions of this Schedule) whether the asset was a business asset at a time before its disposal when it was neither shares in a company nor an interest in shares in a company.
- (2) Where the disposal is made by an individual, the asset was a business asset at that time if at that time it was being used, wholly or partly, for purposes falling within one or more of the following paragraphs—
  - (a) the purposes of a trade carried on at that time by that individual or by a partnership of which that individual was at that time a member;
  - (b) the purposes of any trade carried on by a company which at that time was a qualifying company by reference to that individual;
  - (c) the purposes of any trade carried on by a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to that individual;
  - (d) the purposes of any qualifying office or employment to which that individual was at that time required to devote substantially the whole of his time;
  - (e) the purposes of any office or employment that does not fall within paragraph (d) above but was an office or employment with a trading company in relation to which that individual falls to be treated as having, at that time, been a full-time working officer or employee.
- (3) Where the disposal is made by the trustees of a settlement, the asset was a business asset at that time if at that time it was being used, wholly or partly, for purposes falling within one or more of the following paragraphs—
  - (a) the purposes of a trade carried on by the trustees of the settlement;

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- (b) the purposes of a trade carried on at that time by an eligible beneficiary or by a partnership of which an eligible beneficiary was at that time a member;
  - (c) the purposes of any trade carried on by a company which at that time was a qualifying company by reference to the trustees of the settlement or an eligible beneficiary;
  - (d) the purposes of any trade carried on by a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to the trustees of the settlement or an eligible beneficiary;
  - (e) the purposes of any qualifying office or employment to which an eligible beneficiary was at that time required to devote substantially the whole of his time;
  - (f) the purposes of any office or employment that does not fall within paragraph (e) above but was an office or employment with a trading company in relation to which an eligible beneficiary falls to be treated as having, at that time, been a full-time working officer or employee.
- (4) Where the disposal is made by an individual's personal representatives, the asset was a business asset at that time if at that time it was being used, wholly or partly, for purposes falling within one or more of the following paragraphs—
- (a) the purposes of a trade carried on by the deceased's personal representatives;
  - (b) the purposes of any trade carried on by a company which at that time was a qualifying company by reference to the deceased's personal representatives;
  - (c) the purposes of any trade carried on by a company which at that time was a member of a trading group the holding company of which was at that time a qualifying company by reference to the deceased's personal representatives.
- (5) Where the disposal is made by an individual who acquired the asset as legatee (as defined in section 64) and that time is not a time when the asset was a business asset by virtue of sub-paragraph (2) above, the asset shall be taken to have been a business asset at that time if at that time it was—
- (a) being held by the personal representatives of the deceased, and
  - (b) being used, wholly or partly, for purposes falling within one or more of paragraphs (a) to (c) of sub-paragraph (4) above.

*Companies which are qualifying companies*

- 6 (1) The times when a company shall be taken to have been a qualifying company by reference to an individual, the trustees of a settlement or an individual's personal representatives are—
- (a) in the case of an individual, those set out in sub-paragraphs (2) and (3) below; and
  - (b) in the case of the trustees of a settlement, those set out in sub-paragraphs (2) and (4) below; and
  - (c) in the case of personal representatives, those set out in sub-paragraph (2) below.
- (2) A company was a qualifying company by reference to an individual, the trustees of a settlement or personal representatives at any time when both the following conditions were satisfied, that is to say—

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- (a) the company was a trading company or the holding company of a trading group; and
  - (b) the voting rights in that company were exercisable, as to not less than 25 per cent., by that individual or, as the case may be, the trustees of the settlement or the personal representatives.
- (3) A company was also a qualifying company by reference to an individual at any time when all of the following conditions were satisfied, that is to say—
- (a) the company was a trading company or the holding company of a trading group;
  - (b) the voting rights in that company were exercisable, as to not less than 5 per cent., by that individual; and
  - (c) that individual was a full-time working officer or employee of that company or of a company which at the time had a relevant connection with that company.
- (4) A company was also a qualifying company by reference to the trustees of a settlement at any time when all the following conditions were satisfied, that is to say—
- (a) the company was a trading company or the holding company of a trading group;
  - (b) the voting rights in that company were exercisable, as to not less than 5 per cent., by the trustees of that settlement; and
  - (c) an eligible beneficiary was a full-time working officer or employee of that company or of a company which at the time had a relevant connection with that company.

*Persons who are eligible beneficiaries*

- 7
- (1) An eligible beneficiary, in relation to an asset comprised in a settlement and a time, is any individual having at that time a relevant interest in possession under the settlement in either—
    - (a) the whole of the settled property; or
    - (b) a part of the settled property that is or includes that asset.
  - (2) In this paragraph “relevant interest in possession”, in relation to property comprised in a settlement, means any interest in possession under that settlement other than—
    - (a) a right under that settlement to receive an annuity; or
    - (b) a fixed-term entitlement.
  - (3) In sub-paragraph (2) above “fixed-term entitlement”, in relation to property comprised in a settlement, means any interest under that settlement which is limited to a term that is fixed and is not a term at the end of which the person with that interest will become entitled to the property.

*Cases where there are non-qualifying beneficiaries*

- 8
- (1) This paragraph applies in the case of a disposal of an asset by the trustees of a settlement where the asset’s relevant period of ownership is or includes a period (“a sharing period”) throughout which—
    - (a) the asset was a business asset by reference to one or more eligible beneficiaries;
    - (b) the asset would not otherwise have been a business asset; and

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- (c) there is a non-qualifying part of the relevant income, or there would be if there were any relevant income for that period.
- (2) The period throughout which the asset disposed of is to be taken to have been a business asset shall be determined as if the relevant fraction of every sharing period were a period throughout which the asset was not a business asset.
- (3) In sub-paragraph (2) above “the relevant fraction”, in relation to any sharing period, means the fraction which represents the proportion of relevant income for that period which is, or (if there were such income) would be, a non-qualifying part of that income.
- (4) Where a sharing period is a period in which the proportion mentioned in sub-paragraph (3) above has been different at different times, this paragraph shall require a separate relevant fraction to be determined for, and applied to, each part of that period for which there is a different proportion.
- (5) For the purposes of this paragraph the non-qualifying part of any relevant income for any period is so much of that income for that period as is or, as the case may be, would be—
  - (a) income to which no eligible beneficiary has any entitlement; or
  - (b) income to which a non-qualifying eligible beneficiary has an entitlement.
- (6) In sub-paragraph (5) above “non-qualifying eligible beneficiary”, in relation to a period, means an eligible beneficiary who is not a beneficiary by reference to whom (if he were the only beneficiary) the asset disposed of would be a business asset throughout that period.
- (7) In this paragraph “relevant income” means income from the part of the settled property comprising the asset disposed of.

*Cases where an asset is used at the same time for different purposes*

- 9 (1) This paragraph applies in the case of a disposal by any person of an asset where the asset’s relevant period of ownership is or includes a period (“a mixed-use period”) throughout which the asset—
  - (a) was a business asset by reference to its use for purposes mentioned in paragraph 5(2) to (5) above; but
  - (b) was, at the same time, being put to a non-qualifying use.
- (2) The period throughout which the asset disposed of is to be taken to have been a business asset shall be determined as if the relevant fraction of every mixed-use period were a period throughout which the asset was not a business asset.
- (3) In sub-paragraph (2) above “the relevant fraction”, in relation to any mixed-use period, means the fraction which represents the proportion of the use of the asset during that period that was a non-qualifying use.
- (4) Where both this paragraph and paragraph 8 above apply in relation to the whole or any part of a period—
  - (a) effect shall be given to that paragraph first; and
  - (b) further reductions by virtue of this paragraph in the period for which the asset disposed of is taken to have been a business asset shall be made in respect of only the relevant part of any non-qualifying use.

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- (5) In sub-paragraph (4) above the reference to the relevant part of any non-qualifying use is a reference to the proportion of that use which is not a use to which a non-qualifying part of any relevant income is attributable.
- (6) Where a mixed-use period is a period in which—
- (a) the proportion mentioned in sub-paragraph (3) above has been different at different times, or
  - (b) different attributions have to be made for the purposes of sub-paragraphs (4) and (5) above for different parts of the period,
- this paragraph shall require a separate relevant fraction to be determined for, and applied to, each part of the period for which there is a different proportion or attribution.
- (7) In this paragraph—
- “non-qualifying use”, in relation to an asset, means any use of the asset for purposes which are not purposes in respect of which the asset would fall to be treated as a business asset at the time of its use; and
  - “non-qualifying part” and “relevant income” have the same meanings as in paragraph 8 above.

*Periods of limited exposure to fluctuations in value not to count*

- 10 (1) Where, in the case of any asset disposed of (“the relevant asset”), the period after 5th April 1998 for which that asset had been held at the time of its disposal is or includes a period during which—
- (a) the person making the disposal, or
  - (b) a relevant predecessor of his,
- had limited exposure to fluctuations in the value of the asset, the period during which that person or predecessor had that limited exposure shall not count for the purposes of taper relief.
- (2) The times when a person shall be taken for the purposes of this paragraph to have had such limited exposure in the case of the relevant asset shall be all the times while he held that asset when a transaction entered into at any time by him, or by a relevant predecessor of his, had the effect that he—
- (a) was not exposed, or not exposed to any substantial extent, to the risk of loss from fluctuations in the value of the relevant asset; and
  - (b) was not able to enjoy, or to enjoy to any substantial extent, any opportunities to benefit from such fluctuations.
- (3) The transactions referred to in sub-paragraph (2) above do not include—
- (a) any insurance policy which the person in question might reasonably have been expected to enter into and which is insurance against the loss of the relevant asset or against damage to it, or against both; or
  - (b) any transaction having effect in relation to fluctuations in the value of the relevant asset so far only as they are fluctuations resulting from fluctuations in the value of foreign currencies.
- (4) In this paragraph “relevant predecessor”—
- (a) in relation to a person disposing of an asset, means any person other than the person disposing of it who held that asset at a time falling in the period

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which is taken to be the whole period for which it had been held at the time of its disposal; and

- (b) in relation to a relevant predecessor of a person disposing of an asset, means any other relevant predecessor of that person.

- (5) In sub-paragraph (4) above, the reference, in relation to an asset, to the whole period for which it had been held at the time of its disposal is a reference to the period that would be given for that asset by paragraph 2(1) above if, in paragraph (a), the words “whichever is the later of 6th April 1998 and” were omitted.

*Periods of share ownership not to count where there is a change of activity by the company*

- 11 (1) This paragraph applies where—
- (a) there is a disposal of an asset consisting of shares in a close company; and
  - (b) the period beginning with the relevant time and ending with the time of the disposal includes at least one relevant change of activity involving that company.
- (2) So much of the period after 5th April 1998 for which the asset had been held at the time of its disposal as falls before the time, or latest time, in that period when there was a relevant change of activity involving the close company shall not count for the purposes of taper relief.
- (3) Where—
- (a) a close company or any of its 51 per cent. subsidiaries has at any time begun to carry on a trade, and
  - (b) immediately before that time, neither that company nor any of its 51 per cent. subsidiaries was carrying on a trade,
- a relevant change of activity involving the close company shall be taken to have occurred at that time.
- (4) For the purposes of this paragraph where—
- (a) at the time of the disposal of the shares, the close company was carrying on a business of holding investments, and
  - (b) there has been any occasion falling within—
    - (i) the period of twelve months ending with that time, or
    - (ii) the period of twelve months ending with any earlier time after the relevant time,
 when the close company was not carrying on that business or when the size of that business was small by comparison with its size at the end of that period,
- a relevant change of activity involving the close company shall be taken to have occurred immediately after the latest such occasion before the time of the disposal.
- (5) For the purposes of sub-paragraph (4) above the size of any business at any time shall be determined by assuming it to correspond to the aggregate of the amounts and values given by way of consideration for the assets held at that time for the purposes of the business.
- (6) In determining for the purposes of this paragraph whether a close company is at any time carrying on a business of holding investments, and in determining for those purposes the size at any time of such a business—



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- (a) all the activities of a close company and of all its 51 per cent. subsidiaries shall be taken together as if they were all being carried on by the close company; and
  - (b) the activities that are included in a business of holding investments shall be taken not to include—
    - (i) holding shares in a 51 per cent. subsidiary of the company holding the shares;
    - (ii) making loans to an associated company or to a participator in the company making the loan or in an associated company; or
    - (iii) placing money on deposit.
- (7) In this paragraph—
- (a) references to a company’s carrying on a trade, or to beginning to carry one on, do not include references to its carrying on or beginning to carry on a trade that is merely incidental to any non-trading activities carried on by that company or another company in the same group of companies; and
  - (b) references to a business of holding investments include references to a business of making investments.
- (8) For the purposes of this paragraph a company is to be treated as another’s associated company at any time if at that time, or at another time within one year previously—
- (a) one of them has had control of the other; or
  - (b) both have been under the control of the same person or persons.
- (9) In this paragraph—
- “51 per cent. subsidiary”, in relation to another company, means a company which, in accordance with section 170(7), is an effective 51 per cent. subsidiary of the other company for the purposes of sections 170 to 181; and
- “participator”, in relation to a company, has the meaning given by section 417(1) of the Taxes Act.
- (10) In this paragraph “the relevant time”, in relation to the disposal of an asset consisting of shares in a company, means the beginning of the period after 5th April 1998 for which that asset had been held at the time of its disposal.

*Periods of share ownership not to count in a case of value shifting*

- 12 (1) This paragraph applies (subject to sub-paragraph (4) below) where—
- (a) there is a disposal of an asset consisting of shares in a close company, and
  - (b) at least one relevant shift of value involving that asset has occurred between the relevant time and the time of the disposal.
- (2) So much of the period after 5th April 1998 for which the asset had been held at the time of its disposal as falls before the time, or latest time, in that period at which there was a relevant shift of value involving that asset shall not count for the purposes of taper relief.
- (3) For the purposes of this paragraph a relevant shift of value involving any asset shall be taken to have occurred whenever—
- (a) a person having control of a close company exercised his control of that company so that value passed into that asset out of a relevant holding; or

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- (b) effect was given to any other transaction by virtue of which value passed into that asset out of a relevant holding.
- (4) A relevant shift of value involving an asset shall be disregarded for the purposes of this paragraph if—
- (a) that shift of value is one in which the value passing into that asset out of the relevant holding is insignificant; or
  - (b) that shift of value took place at a time when the qualifying holding period of the relevant holding was at least as long as the qualifying holding period of that asset.
- (5) In sub-paragraphs (3) and (4) above the references to a relevant holding shall be construed, in relation to any case in which value has passed out of one asset into another asset consisting of shares in a company, as a reference to any holding by—
- (a) the person who, following the exercise of control or other transaction by virtue of which the value has passed, held the other asset, or
  - (b) a person connected with him,
- of any shares in that company or in a company under the control of the same person or persons as that company.
- (6) For the purposes of sub-paragraph (4)(b) above the reference to the qualifying holding period of a holding or other asset at the time when a shift of value takes place shall be taken to be what, in relation to a disposal at that time of that holding or other asset by the person then entitled to dispose of it, would be taken to have been its qualifying holding period for the purposes of section 2A.
- (7) In this paragraph references to shares in a company include references to rights over a company.
- (8) In this paragraph “the relevant time”, in relation to the disposal of an asset consisting of shares in a company, means the beginning of the period after 5th April 1998 for which that asset had been held at the time of its disposal.

#### *Rules for options*

- 13 (1) This paragraph applies where by virtue of section 144—
- (a) the grant of an option and the transaction entered into by the grantor in fulfilment of his obligations under the option, or
  - (b) the acquisition of an option and the transaction entered into by the person exercising the option,
- fall to be treated as one transaction.
- (2) The time of the disposal of any asset disposed of in pursuance of the transaction shall be the time of the following disposal—
- (a) if the option binds the grantor to sell, the disposal made in fulfilment of the grantor’s obligations under the option;
  - (b) if the option binds the grantor to buy, the disposal made to the grantor in consequence of the exercise of the option.
- (3) The time of the acquisition of any asset acquired in pursuance of the option, or in consequence of its exercise, shall be the time of the exercise of the option.

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- (4) Any question whether the asset disposed of or acquired was a business asset at any time shall be determined by reference to the asset to which the option related, and not the option.

*Further rules for assets derived from other assets*

- 14 (1) This paragraph applies if, in a case where—
- (a) assets have merged,
  - (b) an asset has divided or otherwise changed its nature, or
  - (c) different rights or interests in or over any asset have been created or extinguished at different times,
- the value of any asset disposed of is derived (through one or more successive events falling within paragraphs (a) to (c) above but not otherwise) from one or more other assets acquired into the same ownership at a time before the acquisition of the asset disposed of.
- (2) The asset disposed of shall be deemed for the purposes of this Schedule to have been acquired at the earliest time at which any asset from which its value is derived was acquired into the same ownership.
- (3) Any determination of whether the asset disposed of was a business asset at a time when another asset from which its value is derived was in the ownership of the person making the disposal shall be made as if that other asset were the asset disposed of or, as the case may be, were comprised in it.

*Special rules for assets transferred between spouses*

- 15 (1) This paragraph applies where a person (“the transferring spouse”) has disposed of any asset to another (“the transferee spouse”) by a disposal falling within section 58(1).
- (2) Paragraph 2 above shall have effect in relation to any subsequent disposal of the asset as if the time when the transferee spouse acquired the asset were the time when the transferring spouse acquired it.
- (3) Where for the purposes of paragraph 2 above the transferring spouse would be treated—
- (a) in a case where there has been one or more previous disposals falling within section 58(1), by virtue of sub-paragraph (2) above, or by virtue of that sub-paragraph together with any other provision of this Schedule, or
  - (b) in a case where there has not been such a previous disposal, by virtue of such another provision,
- as having acquired the asset at a time other than the time when the transferring spouse did acquire it, the reference in that sub-paragraph to the time when the transferring spouse acquired it shall be read as a reference to the time when for the purposes of that paragraph the transferring spouse is treated as having acquired it.
- (4) Where there is a disposal by the transferee spouse, any question whether the asset was a business asset at a time before that disposal shall be determined as if—
- (a) in relation to times when the asset was held by the transferring spouse, references in paragraph 5(2) above to the individual by whom the disposal is made included references to the transferring spouse; and

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- (b) the reference in paragraph 5(5) above to the acquisition of the asset as a legatee by the individual by whom the disposal is made included a reference to its acquisition as a legatee by the transferring spouse.

- (5) Where, in the case of any asset, there has been more than one transfer falling within section 58(1) during the period after 5th April 1998 for which the transferee spouse has held it at the time of that spouse's disposal of that asset, sub-paragraph (4) above shall have effect as if a reference, in relation to any time, to the transferring spouse were a reference to the individual who was the transferring spouse in relation to the next disposal falling within section 58(1) to have been made after that time.

*Special rules for postponed gains*

- 16 (1) Sub-paragraph (3) below applies where the whole or any part of any gain which—
  - (a) would (but for any provision of this Act) have accrued on the disposal of any asset, or
  - (b) would have accrued on any disposal assumed under any enactment to have been made at any time,

falls by virtue of an enactment mentioned in sub-paragraph (2) below to be treated as accruing on or after 6th April 1998 at a time (whether or not the time of a subsequent disposal) which falls after the time of the actual or assumed disposal mentioned in paragraph (a) or (b) above ("the charged disposal").

- (2) Those enactments are—
  - (a) section 10A,
  - (b) section 116(10),
  - (c) section 134,
  - (d) section 154(2) or (4),
  - (e) Schedule 5B or 5C, or
  - (f) paragraph 27 of Schedule 15 to the Finance Act 1996 (qualifying indexed securities).
- (3) In relation to the gain or part of a gain that is treated as accruing after the time of the charged disposal—
  - (a) references in this Schedule (except this sub-paragraph) to the disposal on which the gain or part accrues are references to the charged disposal; and
  - (b) references in this Schedule to the asset disposed of by that disposal are references to the asset that was or would have been disposed of by the charged disposal;

and, accordingly, the end of the period after 5th April 1998 for which that asset had been held at the time of the disposal on which that gain or part accrues shall be deemed to have been the time of the charged disposal.

- (4) In relation to any gain that is treated by virtue of—
  - (a) subsection (1) of section 12, or
  - (b) subsection (2) of section 279,
 as accruing after the time of the disposal from which it accrues, references in this Schedule to the disposal on which the gain accrues, to the asset disposed of on that disposal and to the time of that disposal shall be construed disregarding that subsection.

- (5) It shall be immaterial for the purposes of this paragraph—

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- (a) that the time of the charged disposal or, as the case may be, the time of the actual disposal from which the gain accrues was before 6th April 1998; and
- (b) that the time at which the charged disposal is treated as accruing is postponed on more than one occasion under an enactment specified in subparagraph (2) above.

*Special rule for property settled by a company*

- 17 (1) No part of any chargeable gain accruing to the trustees of a settlement on the disposal of any asset shall be treated as a gain on the disposal of a business asset if—
- (a) the settlor is a company, and
  - (b) that company has an interest in the settlement at the time of the disposal.
- (2) Subject to the following provisions of this paragraph, a company which is a settlor in relation to any settlement shall be regarded as having an interest in a settlement if—
- (a) any property which may at any time be comprised in the settlement, or any derived property is, or will or may become, payable to or applicable for the benefit of that company or an associated company; or
  - (b) that company or an associated company enjoys a benefit deriving directly or indirectly from any property which is comprised in the settlement or any derived property.
- (3) This paragraph does not apply unless the settlor or an associated company is within the charge to corporation tax in respect of chargeable gains for the accounting period in which the chargeable gain accrues.
- (4) In this paragraph “derived property”, in relation to any property, means income from that property or any other property directly or indirectly representing proceeds of, or of income from, that property or income therefrom.
- (5) For the purposes of this paragraph a company is to be treated as another’s associated company at any time if at that time, or at another time within one year previously—
- (a) one of them has had control of the other; or
  - (b) both have been under the control of the same person or persons.
- (6) In this paragraph “settlor” has the meaning given by section 660G(1) and (2) of the Taxes Act.
- (7) This paragraph has effect subject to paragraph 20 below.

*Special rules for assets acquired in the reconstruction of mutual businesses etc.*

- 18 (1) Where—
- (a) shares in a company have been issued under any arrangements for the issue of shares in that company in respect of the interests of the members of a mutual company; and
  - (b) a person to whom shares were issued under those arrangements falls by virtue of subsection (3) of section 136 to be treated as having exchanged interests of his as a member of the mutual company for shares issued under those arrangements,
- paragraph 2 above shall have effect (notwithstanding that section) as if the time of that person’s acquisition of the shares were the time when they were issued to him.

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(2) Where—

- (a) a registered friendly society has been incorporated under the Friendly Societies Act 1992, and
- (b) there has been a change under Schedule 4 to that Act as a result of which a member of the registered society, or of a branch of the registered society, has become a member of the incorporated society or of a branch of the incorporated society,

paragraph 2 above shall have effect (notwithstanding anything in section 217B) in relation to the interests and rights in the incorporated society, or the branch of the incorporated society, which that person had immediately after the change, as if the time of their acquisition by him were the time of the change.

(3) In this paragraph—

“the incorporated society”, in relation to the incorporation of a registered friendly society, means the society after incorporation;

“insurance company” has the meaning given by section 96(1) of the Insurance Companies Act 1982;

“mutual company” means—

- (a) a mutual insurance company; or
- (b) a company of another description carrying on a business on a mutual basis;

“mutual insurance company” means any insurance company carrying on a business without having a share capital;

“the registered society”, in relation to the incorporation of a registered friendly society, means the society before incorporation.

*Special rule for ancillary trust funds*

- 19 (1) Use of an asset as part of an ancillary trust fund of a member of Lloyd’s—
- (a) shall not be regarded as a use in respect of which the asset is to be treated as a business asset at any time; but
  - (b) shall be disregarded in any determination for the purposes of paragraph 9 above of whether it was being put to a non-qualifying use at the same time as it was being used for purposes mentioned in paragraph 5(2) to (5) above.
- (2) In this section “ancillary trust fund” has the same meaning as in Chapter III of Part II of the Finance Act 1993.

*General rules for settlements*

- 20 (1) Where, in the case of any settlement, the settled property originates from more than one settlor, this Schedule shall have effect as if there were a separate and distinct settlement for the property originating from each settlor, and references in this Schedule to an eligible beneficiary shall be construed accordingly.
- (2) Subsections (1) to (5) of section 79 apply for the purposes of this paragraph as they apply for the purposes of that section.

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### *General rule for apportionments under this Schedule*

- 21 Where any apportionment falls to be made for the purposes of this Schedule it shall be made—
- (a) on a just and reasonable basis; and
  - (b) on the assumption that an amount falling to be apportioned by reference to any period arose or accrued at the same rate throughout the period over which it falls to be treated as having arisen or accrued.

### *Interpretation of Schedule*

- 22 (1) In this Schedule—
- “51 per cent. subsidiary” (except in paragraph 11 above) has the meaning given by section 838 of the Taxes Act;
- “commercial association of companies” means a company together with such of its associated companies (within the meaning of section 416 of the Taxes Act) as carry on businesses which are of such a nature that the businesses of the company and the associated companies, taken together, may be reasonably considered to make up a single composite undertaking;
- “eligible beneficiary” shall be construed in accordance with paragraphs 7 and 20 above;
- “full-time working officer or employee”, in relation to any company, means an individual who—
- (a) is an officer or employee of that company or of that company and one or more other companies with which that company has a relevant connection; and
  - (b) is required in that capacity to devote substantially the whole of his time to the service of that company, or to the service of those companies taken together;
- “group of companies” means a company which has one or more 51 per cent. subsidiaries, together with those subsidiaries;
- “holding company” means a company whose business (disregarding any trade carried on by it) consists wholly or mainly of the holding of shares in one or more companies which are its 51 per cent. subsidiaries;
- “office” and “employment” have the same meanings as in the Income Tax Acts;
- “qualifying office or employment”, in relation to any time, means an office or employment with a person who was at that time carrying on a trade;
- “qualifying company” shall be construed in accordance with paragraph 6 above;
- “relevant period of ownership” shall be construed in accordance with paragraph 2 above;
- “shares”, in relation to a company, includes any securities of that company;
- “trade” means (subject to section 241(3)) anything which—
- (a) is a trade, profession or vocation, within the meaning of the Income Tax Acts; and
  - (b) is conducted on a commercial basis and with a view to the realisation of profits;
- “trading company” means a company which is either—
- (a) a company existing wholly for the purpose of carrying on one or more trades; or

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- (b) a company that would fall within paragraph (a) above apart from any purposes capable of having no substantial effect on the extent of the company's activities;
- “trading group” means a group of companies the activities of which (if all the activities of the companies in the group are taken together) do not, or not to any substantial extent, include activities carried on otherwise than in the course of, or for the purposes of, a trade; and
- “transaction” includes any agreement, arrangement or understanding, whether or not legally enforceable, and a series of transactions.
- (2) For the purposes of this Schedule one company has a relevant connection with another company at any time when they are both members of the same group of companies or of the same commercial association of companies.
- (3) References in this Schedule to the acquisition of an asset that was provided, rather than acquired, by the person disposing of it are references to its provision.
- (4) References in this Schedule, in relation to a part disposal, to the asset disposed of are references to the asset of which there is a part disposal.]

## SCHEDULE 1

Section 3.

### APPLICATION OF EXEMPT AMOUNT IN CASES INVOLVING SETTLED PROPERTY

- 1 (1) For any year of assessment during the whole or part of which settled property is held on trusts which secure that, during the lifetime of a mentally disabled person or a person in receipt of attendance allowance or of a disability living allowance by virtue of entitlement to the care component at the highest or middle rate—
- (a) not less than half of the property which is applied is applied for the benefit of that person, and
- (b) that person is entitled to not less than half of the income arising from the property, or no such income may be applied for the benefit of any other person,
- section 3(1) to (6) shall apply to the trustees of the settlement as they apply to an individual [<sup>F2</sup>, but with the modifications specified in this paragraph].
- (2) The trusts on which settled property is held shall not be treated as falling outside sub-paragraph (1) above by reason only of the powers conferred on the trustees by section 32 of the <sup>M1</sup>Trustee Act 1925 or section 33 of the <sup>M2</sup>Trustee Act (Northern Ireland) 1958 (powers of advancement); and the reference in that sub-paragraph to the lifetime of a person shall, where the income from the settled property is held for his benefit on trusts of the kind described in section 33 of the <sup>M3</sup>Trustee Act 1925 (protective trusts), be construed as a reference to the period during which the income is held on trust for him.
- [<sup>F3</sup>(2A) As they apply by virtue of sub-paragraph (1) above—
- (a) section 3(5A) has effect with the omission of paragraph (b), and
- (b) section 3(5B) has effect with the omission of the words “or (b)”.]
- (3) In relation to a settlement which is one of 2 or more qualifying settlements comprised in a group, this paragraph shall have effect as if for the references in section 3 to the



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exempt amount for the year [<sup>F4</sup>(except the one in section 3(2))] there were substituted references to one-tenth of that exempt amount or, if it is more, to such amount as results from dividing the exempt amount for the year by the number of settlements in the group.

- (4) For the purposes of sub-paragraph (3) above—
- (a) a qualifying settlement is any settlement (other than an excluded settlement) which is made on or after 10th March 1981 and to the trustees of which this paragraph applies for the year of assessment; and
  - (b) all qualifying settlements in relation to which the same person is the settlor constitute a group.
- (5) If, in consequence of 2 or more persons being settlors in relation to it, a settlement is comprised in 2 or more groups comprising different numbers of settlements, sub-paragraph (3) above shall apply to it as if the number by which the exempt amount for the year is to be divided were the number of settlements in the largest group.
- (6) In this paragraph—
- “mentally disabled person” means a person who by reason of mental disorder within the meaning of the <sup>M4</sup>Mental Health Act 1983 is incapable of administering his property or managing his affairs;
  - “attendance allowance” means an allowance under section 64 of the <sup>M5</sup>Social Security Contributions and Benefits Act 1992 or section 64 of the <sup>M6</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992;
  - “disability living allowance” means a disability living allowance under section 71 of the <sup>M7</sup>Social Security Contributions and Benefits Act 1992 or section 71 of the <sup>M8</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
  - “settlor” and “excluded settlement” have the same meanings as in paragraph 2 below.
- (7) An inspector may by notice require any person, being a party to a settlement, to furnish him within such time as he may direct (not being less than 28 days) with such particulars as he thinks necessary for the purposes of this paragraph.

#### Textual Amendments

- F2** Words in Sch. 1 para. 1(1) inserted (retrospectively) by [Finance Act 2003 \(c. 14\), Sch. 28 paras. 4\(2\)\(b\), 8](#)
- F3** Sch. 1 para. 1(2A) inserted (retrospectively) by [Finance Act 2003 \(c. 14\), Sch. 28 paras. 4\(3\), 8](#)
- F4** Words in Sch. 1 para. 1(3) inserted (retrospectively) by [Finance Act 2003 \(c. 14\), Sch. 28 paras. 4\(4\)\(b\), 8](#)

#### Marginal Citations

- M1** 1925 c. 19.
- M2** 1958 c. 23 (N.I.).
- M3** 1925 c. 19.
- M4** 1983 c. 20.
- M5** 1992 c. 6.
- M6** 1992 c. 9.
- M7** 1992 c. 4.
- M8** 1992 c. 7.

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- 2 (1) For any year of assessment during the whole or part of which any property is settled property, not being a year of assessment for which paragraph 1(1) above applies, section 3(1) to (6) shall apply to the trustees of a settlement as they apply to an individual but with the following modifications.
- (2) In [<sup>F5</sup>section 3(1), (5A), (5B) and (5C)] for “the exempt amount for the year” there shall be substituted “one-half of the exempt amount for the year”.
- [<sup>F6</sup>(2A) As they apply by virtue of sub-paragraph (1) above—
- (a) section 3(5A) has effect with the omission of paragraph (b), and
  - (b) section 3(5B) has effect with the omission of the words “or (b)”.]
- (3) Section 3(6) shall apply only to the trustees of a settlement made before 7th June 1978 and, in relation to such trustees, shall have effect with the substitution for “the exempt amount for the year” and “twice the exempt amount for the year” of “one-half of the exempt amount for the year” and “the exempt amount for the year” respectively.
- (4) In relation to a settlement which is one of 2 or more qualifying settlements comprised in a group, sub-paragraph (2) above shall have effect as if for the reference to one-half of the exempt amount for the year there were substituted a reference to one-tenth of that exempt amount or, if it is more, to such amount as results from dividing one-half of the exempt amount for the year by the number of settlements in the group.
- (5) For the purposes of sub-paragraph (4) above—
- (a) a qualifying settlement is any settlement (other than an excluded settlement) which is made after 6th June 1978 and to the trustees of which this paragraph applies for the year of assessment; and
  - (b) all qualifying settlements in relation to which the same person is the settlor constitute a group.
- (6) If, in consequence of 2 or more persons being settlors in relation to it, a settlement is comprised in 2 or more groups comprising different numbers of settlements, sub-paragraph (4) above shall apply to it as if the number by which one-half of the exempt amount for the year is to be divided were the number of settlements in the largest group.
- (7) In this paragraph “settlor” has the meaning given by [<sup>F7</sup>section 660G(1) and (2)] of the Taxes Act and includes, in the case of a settlement arising under a will or intestacy, the testator or intestate and “excluded settlement” means—
- (a) any settlement the trustees of which are not for the whole or any part of the year of assessment treated under section 69(1) as resident and ordinarily resident in the United Kingdom; and
  - (b) any settlement the property comprised in which—
    - (i) is held for charitable purposes only and cannot become applicable for other purposes; or
    - (ii) is held for the purposes of any such scheme or fund as is mentioned in sub-paragraph (8) below.
- (8) The schemes and funds referred to in sub-paragraph (7)(b)(ii) above are funds to which section 615(3) of the Taxes Act applies, schemes and funds approved under section 620 or 621 of that Act, sponsored superannuation schemes as defined in section 624 of that Act and exempt approved schemes and statutory schemes as defined in Chapter I of Part XIV of that Act.

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- (9) An inspector may by notice require any person, being a party to a settlement, to furnish him within such time as he may direct (not being less than 28 days) with such particulars as he thinks necessary for the purposes of this paragraph.

#### Textual Amendments

- F5** Words in Sch. 1 para. 2(2) substituted (retrospectively) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 paras. 5\(3\)\(a\)](#), [8](#)
- F6** Sch. 1 para. 2(2A) inserted (retrospectively) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 paras. 5\(4\)](#), [8](#)
- F7** Words in Sch. 1 para. 2(7) substituted (with effect in accordance with s. 74(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 17 para. 32](#)

## SCHEDULE 2

Section 35.

### 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](#)
- C2** 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.
- C3** 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—
- 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
  - 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.
- (3) This paragraph shall not apply in relation to a disposal of shares or securities of a company by a person to whom those shares or securities were issued as an employee either of the company or of some other person on terms which restrict his rights to dispose of them.

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*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
  - (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>M9</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**

**M9** 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>M10</sup>Finance Act 1982, (so that they do not constitute a 1982 holding within the meaning of

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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.
- (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.
- (6) This paragraph shall apply separately in relation to any securities held by a person to whom they were issued as an employee of the company or of any other person on terms which restrict his rights to dispose of them, so long as those terms are in force, and, while applying separately to any such securities, shall have effect as if the owner held them in a capacity other than that in which he holds any other securities of the same class.
- (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 him 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 either section 58 or 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 the wife or husband of the holder, or 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 him on a disposal in relation to which either section 58 or

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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 he holds in one capacity, that election does not cover quoted securities which he holds in another capacity, and
  - (b) that an election under this paragraph is irrevocable.
- (11) An election under this paragraph shall be made by notice to [<sup>F8</sup>an officer of the Board given—
- (a) in the case of an election for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the first relevant disposal is made;
  - (b) in the case of an election for the purposes of corporation tax, 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) in either case, 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

**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)**

#### Marginal Citations

**M10** 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
  - (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

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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—
  - “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.

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- (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.

## PART II

### LAND REFLECTING DEVELOPMENT VALUE

- 9 (1) Subject to paragraph 17(2) of Schedule 11, this Part of this Schedule shall apply in relation to a disposal of an asset which is an interest in land situated in the United Kingdom—
- (a) if, but for this paragraph, the expenditure allowable as a deduction in computing the gain accruing on the disposal would include any expenditure incurred before 6th April 1965, and
  - (b) if the consideration for the asset acquired on the disposal exceeds the current use value of the asset at the time of the disposal, or if any material development of the land has been carried out after 17th December 1973 since the person making the disposal acquired the asset.
- (2) For the purposes of this Act, it shall be assumed that, in relation to the disposal and, if it is a part disposal, in relation to any subsequent disposal of the asset which is an interest in land situated in the United Kingdom, that asset was sold by the person making the disposal, and immediately reacquired by him, at its market value on 6th April 1965.
- (3) Sub-paragraph (2) above shall apply also in relation to any prior part disposal of the asset and, if tax has been charged, or relief allowed, by reference to that part disposal on a different footing, all such adjustments shall be made, whether by way of assessment or discharge or repayment of tax, as are required to give effect to the provisions of this sub-paragraph.
- (4) Sub-paragraph (2) above shall not apply in relation to a disposal of assets—
- (a) on the assumption in that sub-paragraph a gain would accrue on that disposal to the person making the disposal and either a smaller gain or a loss would so accrue (computed in accordance with the provisions of this Act) if it did not apply, or
  - (b) if on the assumption in sub-paragraph (2) a loss would so accrue and either a smaller loss or a gain would accrue if that sub-paragraph did not apply,
- and accordingly the amount of the gain or loss accruing on the disposal shall be computed without regard to the 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.
- (5) For the purposes of this Part of this Schedule—
- (a) “interest in land” means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on that other’s ability to grant the estate, interest or right in question, except that it does



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not include the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of a mortgage, an agreement for a mortgage or a charge of any kind over land, or, in Scotland, the interest of a creditor in a charge or security of any kind over land; and

(b) “land” includes buildings.

10 (1) For the purposes of this Part of this Schedule, the current use value of an interest in land shall be ascertained in accordance with the following provisions of this Part, and in this Part the time as at which current use value is to be ascertained is referred to as “the relevant time”.

(2) Subject to the following provisions of this Part of this Schedule, the current use value of an interest in land at the relevant time is the market value of that interest at that time calculated on the assumption that it was at that time, and would continue to be, unlawful to carry out any material development of the land other than any material development thereof which, being authorised by planning permission in force at that time, was begun before that time.

In relation to any material development which was begun before 18th December 1973 this sub-paragraph shall have effect with the omission of the words from “other than” to “before that time”.

(3) In this paragraph “planning permission” has the same meaning as in the <sup>M11</sup>Town and Country Planning Act 1990, or, in Scotland, the <sup>M12</sup>Town and Country Planning (Scotland) Act 1972, or, in Northern Ireland, the <sup>M13</sup>Planning (Northern Ireland) Order 1991, and in determining for the purposes of this paragraph what material development of any land was authorised by planning permission at a time when there was in force in respect of the land planning permission granted on an outline application (that is to say, an application for planning permission subject to subsequent approval on any matters), any such development of the land which at that time—

(a) was authorised by that permission without any requirement as to subsequent approval; or

(b) not being so authorised, had been approved in the manner applicable to that planning permission,

but no other material development, shall for those purposes be taken to have been authorised by that permission at that time.

(4) Where the value to be ascertained is the current use value of an interest in land which has been disposed of by way of a part disposal of an asset (“the relevant asset”) consisting of an interest in land, the current use value at the relevant time of the interest disposed of shall be the relevant fraction of the current use value of the relevant asset at that time, calculated on the same assumptions as to the lawfulness or otherwise of any material development as fall to be made under this Part in calculating the current use value at that time of the interest disposed of.

(5) For the purposes of sub-paragraph (4) above “the relevant fraction” means that fraction of the sums mentioned in paragraph (6) below which under subsection (2) of section 42 is, or would but for subsection (4) of that section be, allowable as a deduction in computing the amount of the gain accruing on the part disposal.

(6) The sums referred to in sub-paragraph (5) above are the sums which, if the entire relevant asset had been disposed of at the time of the part disposal, would be

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allowable by virtue of section 38(1)(a) and (b) as a deduction in computing the gain accruing on that disposal of the relevant asset.

- (7) Sub-paragraphs (4) to (6) above shall not apply—
- (a) in the case of a disposal of an interest in land by way of a part disposal if, on making the disposal, the person doing so no longer has any interest in the land which is subject to that interest; or
  - (b) in a case to which the following provisions of this paragraph apply.
- (8) In computing any gain accruing to a person on a part disposal of an interest in land resulting under subsection (1) of section 22 from the receipt as mentioned in paragraph (a), (c) or (d) of that subsection of a capital sum, the current use value at the relevant time of the interest out of which the part disposal was made shall be taken to be what it would have been at that time if the circumstances which caused the capital sum to be received had not arisen.

#### Marginal Citations

- M11** 1990 c. 8.  
**M12** 1972 c. 52.  
**M13** S.I. 1991/1220 (N.I.11)

- 11 (1) The current use value of an interest in land which is either—
- (a) a freehold interest which is subject to a lease or an agreement for a lease, or
  - (b) an interest under a lease or agreement for a lease,
- shall be ascertained without regard to any premium required under the lease or agreement for a lease or any sublease, or otherwise under the terms subject to which the lease or sublease was or is to be granted, but with regard to all other rights under the lease or prospective lease (and, for the current use value of an interest under a lease subject to a sublease, under the sublease).
- (2) If under sub-paragraph (1) above an interest under a lease or agreement for a lease would have a negative value, the current use value of the interest shall be nil.
- (3) If a lease is granted out of any interest in land after 17th December 1973, then, in computing any gain accruing on any disposal of the reversion on the lease made while the lease subsists, the current use value of the reversion at any time after the grant of the lease shall not exceed what would have been at that time the current use value of the interest in the land of the person then owning the reversion if that interest had not been subject to the lease.
- (4) In the application of this paragraph to Scotland, “freehold” means the estate or interest of the proprietor of the dominium utile or, in the case of property other than feudal property, of the owner, and “reversion” means the interest of the landlord in property subject to a lease.
- 12 In computing any gain accruing to a person on a disposal of a lease which is a wasting asset, the current use value of the lease at the time of its acquisition by the person making the disposal shall be the fraction—
- of what its current use value at that time would be apart from this paragraph, where—
- A is equal to so much of the expenditure attributable to the lease under section 38(1)(a) and (b) as is not under paragraph 1 of Schedule 8

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excluded therefrom for the purposes of the computation of the gain accruing on the disposal, and

B is equal to the whole of the expenditure which would be so attributable to the lease for those purposes apart from the said paragraph 1.

13 (1) In this Part of this Schedule, “material development”, in relation to any land, means the making of any change in the state, nature or use of the land, but the doing of any of the following things in the case of any land shall not be taken to involve material development of the land, that is to say—

- (a) the carrying out of works for the maintenance, improvement, enlargement or other alteration of any building, so long as the cubic content of the original building is not exceeded by more than one-tenth;
- (b) the carrying out of works for the rebuilding, as often as occasion may require, of any building which was in existence at the relevant time, or of any building which was in existence in the period of 10 years immediately preceding the day on which that time falls but was destroyed or demolished before the relevant time, so long as (in either case) the cubic content of the original building is not exceeded by more than one-tenth;
- (c) the use of any land for the purposes of agriculture or forestry, the use for any of those purposes of any building occupied together with land so used, and the carrying out on any land so used of any building or other operations required for the purposes of that use;
- (d) the carrying out of operations on land for, or the use of land for, the display of an advertisement, announcement or direction of any kind;
- (e) the carrying out of operations for, or the use of the land for, car parking, provided that such use shall not exceed 3 years;
- (f) in the case of a building or other land which at the relevant time was used for a purpose falling within any class specified in sub-paragraph (4) below or which, being unoccupied at that time, was last used for any such purpose, the use of that building or land for any other purpose falling within the same class;
- (g) in the case of a building or other land which at the relevant time was in the occupation of a person by whom it was used as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content of the part of the building used for that purpose at the relevant time or, as the case may be, one-tenth of the area of the land so used at that time;
- (h) in the case of land which at the relevant time was being temporarily used for a purpose other than the purpose for which it was normally used, the resumption of the use of the land for the last-mentioned purpose;
- (i) in the case of land which was unoccupied at the relevant time, the use of the land for the purpose for which it was last used before that time.

References in this paragraph to the cubic content of a building are references to that content as ascertained by external measurement.

(2) For the purposes of sub-paragraph (1)(a) and (b)—

- (a) where 2 or more buildings are included in a single development the whole of that development may be regarded as a single building, and where 2 or more buildings result from the redevelopment of a single building the new buildings may together be regarded as a single building, but 2 or more

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buildings shall not be treated as included in a single development unless they are or were comprised in the same curtilage; and

- (b) in determining whether or not the cubic content of the original building has been exceeded by more than one-tenth, the cubic content of the building after the carrying out of the works in question shall be treated as reduced by the amount (if any) by which so much of that cubic content as is attributable to one or more of the matters mentioned in sub-paragraph (3) below exceeds so much of the cubic content of the original building as was attributable to one or more of the matters so mentioned.

(3) The matters referred to in sub-paragraph (2)(b) are the following, that is to say—

- (a) means of escape in case of fire;  
(b) car-parking or garage space;  
(c) accommodation for plant providing heating, air-conditioning or similar facilities.

(4) The classes of purposes mentioned in sub-paragraph (1)(f) are the following—

Class A—Use as a dwelling-house or for the purpose of any activities which are wholly or mainly carried on otherwise than for profit, except use for a purpose falling within Class B, C or E.

Class B—Use as an office or retail shop.

Class C—Use as a hotel, boarding-house or guest-house, or as premises licensed for the sale of intoxicating liquors for consumption on the premises.

Class D—Use for the purpose of any activities wholly or mainly carried on for profit, except—

- (a) use as a dwelling-house or for the purposes of agriculture or forestry; and  
(b) use for a purpose falling within Class B, C or E.

Class E—Use for any of the following purposes, namely—

- (a) the carrying on of any process for or incidental to any of the following purposes, namely—  
(i) the making of any article or of any part of any article, or the production of any substance;  
(ii) the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolishing of any article; or  
(iii) without prejudice to (i) or (ii) above, the getting, dressing or treatment of minerals,

being a process carried on in the course of a trade or business other than agriculture or forestry, but excluding any process carried on at a dwelling-house or retail shop;

- (b) storage purposes (whether or not involving use as a warehouse or repository) other than storage purposes ancillary to a purpose falling within Class B or C.

14 (1) For the purposes of this Part, material development shall be taken to be begun on the earliest date on which any specified operation comprised in the material development is begun.

(2) In this paragraph “specified operation” means any of the following, that is to say—

- (a) any work of construction in the course of the erection of a building;  
(b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;

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- (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in (b) above;
  - (d) any operation in the course of laying out or constructing a road or part of a road;
  - (e) any change in the use of any land.
- (3) Subject to sub-paragraph (4) below, material development shall for the purposes of this Part of this Schedule not be treated as carried out after a particular date if it was begun on or before that date.
- (4) If, in the case of any land—
- (a) material development thereof was begun on or before 17th December 1973 but was not completed on or before that date, and
  - (b) the development was on that date to any extent not authorised by planning permission (within the meaning of paragraph 10(3) above) then in force,
- then, for the purposes of this Part of this Schedule, so much of the development carried out after that date as was not so authorised on that date shall be treated as begun on the earliest date after 17th December 1973 on which any specified operation comprised therein is begun, and shall accordingly be treated as material development of the land carried out after 17th December 1973.
- 15 In this Part of this Schedule, unless the context otherwise requires—
- “agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;
  - “article” means an article of any description;
  - “building” includes part of a building and references to a building may include references to land occupied therewith and used for the same purposes;
  - “forestry” includes afforestation;
  - “minerals” includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working;
  - “retail shop” includes any premises of a similar character where retail trade or business (including repair work) is carried on;
  - “substance” means any natural or artificial substance or material, whether in solid or liquid form or in the form of a gas or vapour.

### PART III

#### OTHER ASSETS

*Apportionment by reference to straightline growth of gain or loss over period of ownership*

- 16 (1) This paragraph applies subject to Parts I and II of this Schedule.
- (2) On the disposal of assets by a person whose period of ownership began before 6th April 1965 only so much of any gain accruing on the disposal as is under this

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paragraph to be apportioned to the period beginning with 6th April 1965 shall be a chargeable gain.

- (3) Subject to the following provisions of this Schedule, the gain shall be assumed to have grown at a uniform rate from nothing at the beginning of the period of ownership to its full amount at the time of the disposal so that, calling the part of that period before 6th April 1965, P, and the time beginning with 6th April 1965 and ending with the time of the disposal T, the fraction of the gain which is a chargeable gain is—

$$\frac{T}{P + T}.$$

- (4) If any of the expenditure which is allowable as a deduction in the computation of the gain is within section 38(1)(b)—
- (a) the gain shall be attributed to the expenditure, if any, allowable under section 38(1)(a) as one item of expenditure, and to the respective items of expenditure under section 38(1)(b) in proportion to the respective amounts of those items of expenditure,
  - (b) sub-paragraph (3) of this paragraph shall apply to the part of the gain attributed to the expenditure under section 38(1)(a),
  - (c) each part of the gain attributed to the items of expenditure under section 38(1)(b) shall be assumed to have grown at a uniform rate from nothing at the time when the relevant item of expenditure was first reflected in the value of the asset to the full amount of that part of the gain at the time of the disposal,

so that, calling the respective proportions of the gain E(0), E(1), E(2) and so on (so that they add up to unity) and calling the respective periods from the times when the items under section 38(1)(b) were reflected in the value of the asset to 5th April 1965 P(1), P(2) and so on, and employing also the abbreviations in sub-paragraph (3) above, the fraction of the gain which is a chargeable gain is—

$$E(0) \frac{T}{P + T} + E(1) \frac{T}{P(1) + T} + E(2) \frac{T}{P(2) + T} \text{ and so on.}$$

- (5) In a case within sub-paragraph (4) above where there is no initial expenditure (that is no expenditure under section 38(1)(a)) or that initial expenditure is, compared with any item of expenditure under section 38(1)(b), disproportionately small having regard to the value of the asset immediately before the subsequent item of expenditure was incurred, the part of the gain which is not attributable to the enhancement of the value of the asset due to any item of expenditure under section 38(1)(b) shall be deemed to be attributed to expenditure incurred at the beginning of the period of ownership and allowable under section 38(1)(a), and the part or parts of the gain attributable to expenditure under section 38(1)(b) shall be reduced accordingly.
- (6) The beginning of the period over which a gain, or part of a gain, is under sub-paragraphs (3) and (4) above to be treated as growing shall not be earlier than 6th April 1945, and this sub-paragraph shall have effect notwithstanding any provision in this Schedule or elsewhere in this Act.

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- (7) If in pursuance of section 42 an asset's market value at a date before 6th April 1965 is to be ascertained, sub-paragraphs (3) to (5) above shall have effect as if that asset had been on that date sold by the owner, and immediately reacquired by him, at that market value.
- (8) If in pursuance of section 42 an asset's market value at a date on or after 6th April 1965 is to be ascertained sub-paragraphs (3) to (5) above shall have effect as if—
  - (a) the asset on that date had been sold by the owner, and immediately reacquired by him, at that market value, and
  - (b) accordingly, the computation of any gain on a subsequent disposal of that asset shall be computed—
    - (i) by apportioning in accordance with this paragraph the gain or loss over a period ending on that date (the date of the part disposal), and
    - (ii) by bringing into account the entire gain or loss over the period from the date of the part disposal to the date of subsequent disposal.
- (9) For the purposes of this paragraph the period of ownership of an asset shall, where under section 43 account is to be taken of expenditure in respect of an asset from which the asset disposed of was derived, or where it would so apply if there were any relevant expenditure in respect of that other asset, include the period of ownership of that other asset.
- (10) If under this paragraph part only of a gain is a chargeable gain, the fraction in section 223(2) shall be applied to that part instead of to the whole of the gain.

*Election for valuation at 6th April 1965*

- 17 (1) If the person making a disposal so elects, paragraph 16 above shall not apply in relation to that disposal and it shall be assumed, both for the purposes of computing the gain accruing to that person on the disposal, and for all other purposes both in relation to that person and other persons, that the assets disposed of, and any assets of which account is to be taken in relation to the disposal under section 43, being assets which were in the ownership of that person on 6th April 1965, were on that date sold, and immediately reacquired, by him at their market value on 6th April 1965.

- (2) Sub-paragraph (1) above shall not apply in relation to a disposal of assets if on the assumption in that sub-paragraph a loss would accrue on that disposal to the person making the disposal and either a smaller loss or a gain would accrue if sub-paragraph (1) did not apply, but in a case where this sub-paragraph would otherwise substitute 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.

The displacement of sub-paragraph (1) above by this sub-paragraph shall not be taken as bringing paragraph 16 above into operation.

- (3) An election under this paragraph shall be made by notice to <sup>F9</sup>an officer of the Board given—
  - (a) in the case of an election for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the disposal is made;

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- (b) in the case of an election for the purposes of corporation tax, within 2 years from the end of the accounting period in which the disposal is made; or
  - (c) in either case, within such further time as the Board may by notice allow.]
- (4) For the avoidance of doubt it is hereby declared that an election under this paragraph is irrevocable.
- (5) An election may not be made under this paragraph as respects, or in relation to, an asset the market value of which at a date on or after 6th April 1965, and before the date of the disposal to which the election relates, is to be ascertained in pursuance of section 42.

#### Textual Amendments

- F9** Words in Sch. 2 para. 17(3) substituted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 42\(3\)](#)

#### *Unquoted shares, commodities etc.*

- 18 (1) This paragraph has effect as respects shares held by any person on 6th April 1965 other than quoted securities within the meaning of paragraph 8 above and shares as respects which an election is made under paragraph 17 above.
- (2) For the purpose of—
- (a) identifying the shares so held on 6th April 1965 with shares previously acquired, and
  - (b) identifying the shares so held on that date with shares subsequently disposed of, and distinguishing them from shares acquired subsequently,
- so far as the shares are of the same class, shares bought at a later time shall be deemed to have been disposed of before shares bought at an earlier time.
- (3) Sub-paragraph (2) above has effect subject to section 105.
- (4) Shares shall not be treated for the purposes of this paragraph as being of the same class unless if dealt with on a recognised stock exchange they would be so treated, but shall be treated in accordance with this paragraph notwithstanding that they are identified in a different way by a disposal or by the transfer or delivery giving effect to it.
- (5) This paragraph, without sub-paragraph (4), shall apply in relation to any assets, other than shares, which are of a nature to be dealt with without identifying the particular assets disposed of or acquired.

#### *Reorganisation of share capital, conversion of securities etc.*

- 19 (1) For the purposes of this Act, it shall be assumed that any shares or securities held by a person on 6th April 1965 (identified in accordance with paragraph 18 above) which, in accordance with Chapter II of Part IV, are to be regarded as being or forming part of a new holding were sold and immediately reacquired by him on 6th April 1965 at their market value on that date.



*Status: Point in time view as at 15/02/1999.*

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- (2) If, at any time after 5th April 1965, a person comes to have, in accordance with Chapter II of Part IV, a new holding, paragraph 16(3) to (5) above shall have effect as if—
- (a) the new holding had at that time been sold by the owner, and immediately reacquired by him, at its market value at that time, and
  - (b) accordingly, the amount of any gain on a disposal of the new holding or any part of it shall be computed—
    - (i) by apportioning in accordance with paragraph 16 above the gain or loss over a period ending at that time, and
    - (ii) by bringing into account the entire gain or loss over the period from that time to the date of the disposal.
- (3) This paragraph shall not apply in relation to a reorganisation of a company's share capital if the new holding differs only from the original shares in being a different number, whether greater or less, of shares of the same class as the original shares.

## PART IV

### MISCELLANEOUS

#### *Capital allowances*

- 20 If under any provision in this Schedule it is to be assumed that any asset was on 6th April 1965 sold by the owner, and immediately reacquired by him, sections 41 and 47 shall apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by the owner in providing the asset, and so made for the year 1965-66 or for any subsequent year of assessment, as if it were made in respect of the expenditure which, on that assumption, was incurred by him in reacquiring the asset on 7th April 1965.

#### *Assets transferred to close companies*

- 21 (1) This paragraph has effect where—
- (a) at any time, including a time before 7th April 1965, any of the persons having control of a close company, or any person who is connected with a person having control of a close company, has transferred assets to the company, and
  - (b) paragraph 16 above applies in relation to a disposal by one of the persons having control of the company of shares or securities in the company, or in relation to a disposal by a person having, up to the time of disposal, a substantial holding of shares or securities in the company, being in either case a disposal after the transfer of the assets.
- (2) So far as the gain accruing to the said person on the disposal of the shares is attributable to a profit on the assets so transferred, the period over which the gain is to be treated under paragraph 16 above as growing at a uniform rate shall begin with the time when the assets were transferred to the company, and accordingly a part of a gain attributable to a profit on assets transferred on or after 6th April 1965 shall all be a chargeable gain.
- (3) This paragraph shall not apply where a loss, and not a gain, accrues on the disposal.

*Status: Point in time view as at 15/02/1999.*

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### *Husbands and wives*

- 22 Where section 58 is applied in relation to a disposal of an asset by a man to his wife, or by a man's wife to him, then in relation to a subsequent disposal of the asset (not within that section) the one making the disposal shall be treated for the purposes of this Schedule as if the other's acquisition or provision of the asset had been his or her acquisition or provision of it.

### *Compensation and insurance money*

- 23 Where section 23(4)(a) applies to exclude a gain which, in consequence of this Schedule, is not all chargeable gain, the amount of the reduction to be made under section 23(4)(b) shall be the amount of the chargeable gain and not the whole amount of the gain; and in section 23(5)(b) for the reference to the amount by which the gain is reduced under section 23(5)(a) there shall be substituted a reference to the amount by which the chargeable gain is proportionately reduced under section 23(5)(a).

## SCHEDULE 3

Section 35.

### ASSETS HELD ON 31ST MARCH 1982

#### *Previous no gain/no loss disposals*

- 1 (1) Where—
- (a) a person makes a disposal, not being a no gain/no loss disposal, of an asset which he acquired after 31st March 1982, and
  - (b) the disposal by which he acquired the asset and any previous disposal of the asset after 31st March 1982 was a no gain/no loss disposal,
- he shall be treated for the purposes of section 35 as having held the asset on 31st March 1982.
- (2) For the purposes of this paragraph a no gain/no loss disposal is one on which by virtue of any of the enactments specified in section 35(3)(d) neither a gain nor a loss accrues to the person making the disposal.
- 2 (1) Sub-paragraph (2) below applies where a person makes a disposal of an asset acquired by him on or after 6th April 1988 in circumstances in which section 58 or 171 applied.
- (2) Where this sub-paragraph applies—
- (a) an election under section 35(5) by the person making the disposal shall not cover the disposal, but
  - (b) the making of such an election by the person from whom the asset was acquired shall cause the disposal to fall outside subsection (3) of that section (so that subsection (2) of that section is not excluded by it) whether or not the person making the disposal makes such an election.
- (3) Where the person from whom the asset was acquired by the person making the disposal himself acquired it on or after 6th April 1988 in circumstances in which section 58 or 171 applied, an election made by him shall not have the effect described in sub-paragraph (2)(b) above but an election made by—

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- (a) the last person by whom the asset was acquired after 5th April 1988 otherwise than in such circumstances, or
  - (b) if there is no such person, the person who held the asset on 5th April 1988,
- shall have that effect.

#### *Capital allowances*

- 3 If under section 35 it is to be assumed that any asset was on 31st March 1982 sold by the person making the disposal and immediately reacquired by him, sections 41 and 47 shall apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by him in providing the asset as if it were made in respect of expenditure which, on that assumption, was incurred by him in reacquiring the asset on 31st March 1982.

#### *Part disposals etc.*

- 4 (1) Where, in relation to a disposal to which section 35(2) applies, section 42 has effect by reason of an earlier disposal made after 31st March 1982 and before 6th April 1988, the sums to be apportioned under section 42 shall for the purposes of the later disposal be ascertained on the assumption stated in section 35(2).
- (2) In any case where—
- (a) subsection (2) of section 35 applies in relation to the disposal of an asset,
  - (b) if that subsection did not apply, section 23(2), 122(4), 133(4) or 244 would operate to disallow expenditure as a deduction in computing a gain accruing on the disposal, and
  - (c) the disallowance would be attributable to the reduction of the amount of the consideration for a disposal made after 31st March 1982 but before 6th April 1988,

the amount allowable as a deduction on the disposal shall be reduced by the amount which would be disallowed if section 35(2) did not apply.

#### *Assets derived from other assets*

- 5 Section 35 shall have effect with the necessary modifications in relation to a disposal of an asset which on 31st March 1982 was not itself held by the person making the disposal, if its value is derived from another asset of which account is to be taken in relation to the disposal under section 43.

#### *Apportionment of pre-1965 gains and losses*

- 6 In a case where because of paragraph 16 of Schedule 2 only part of a gain or loss is a chargeable gain or allowable loss, section 35(3)(a) and (b) shall have effect as if the amount of the gain or loss that would accrue if subsection (2) did not apply were equal to that part.

#### *Elections under section section 35(5): excluded disposals*

- 7 (1) An election under section 35(5) shall not cover disposals such as are specified in sub-paragraph (2) below.

*Status: Point in time view as at 15/02/1999.*

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- (2) The disposals mentioned in sub-paragraph (1) above are disposals of, or of an interest in—
- (a) plant or machinery,
  - (b) an asset which the person making the disposal has at any time held for the purposes of or in connection with—
    - (i) a trade consisting of the working of a source of mineral deposits, or
    - (ii) where a trade involves (but does not consist of) such working, the part of the trade which involves such working, or
  - (c) a licence under [<sup>F10</sup>Part I of the Petroleum Act 1998] or the <sup>M14</sup>Petroleum (Production) Act (Northern Ireland) 1964; or
  - (d) shares which, on 31st March 1982, were unquoted and derived their value, or the greater part of their value, directly or indirectly from oil exploration or exploitation assets situated in the United Kingdom or a designated area or from such assets and oil exploration or exploitation rights taken together; but a disposal does not fall within paragraph (a) or (b) above unless a capital allowance in respect of any expenditure attributable to the asset has been made to the person making the disposal or would have been made to him had he made a claim.
- (3) For the purposes of sub-paragraph (2)(d) above,—
- (a) “shares” includes stock and any security, as defined in section 254(1) of the Taxes Act; and
  - (b) shares (as so defined) were unquoted on 31st March 1982 if, on that date, they were neither quoted on a recognised stock exchange nor dealt in on the Unlisted Securities Market;
- but nothing in this paragraph affects the operation, in relation to such unquoted shares, of sections 126 to 130.
- (4) In sub-paragraph (2)(d) above—
- “designated area” means an area designated by Order in Council under section 1(7) of the <sup>M15</sup>Continental Shelf Act 1964;
- “oil exploration or exploitation assets” shall be construed in accordance with sub-paragraphs (5) and (6) below; and
- “oil exploration or exploitation rights” means rights to assets to be produced by oil exploration or exploitation activities (as defined in sub-paragraph (6) below) or to interests in or to the benefit of such assets.
- (5) For the purposes of sub-paragraph (2)(d) above an asset is an oil exploration or exploitation asset if either—
- (a) it is not a mobile asset and is being or has at some time been used in connection with oil exploration or exploitation activities carried on in the United Kingdom or a designated area; or
  - (b) it is a mobile asset which has at some time been used in connection with oil exploration or exploitation activities so carried on and is dedicated to an oil field in which the company whose shares are disposed of by the disposal, or a person connected with that company, is or has been a participator;
- and, subject to sub-paragraph (6) below, expressions used in paragraphs (a) and (b) above have the same meaning as if those paragraphs were included in Part I of the <sup>M16</sup>Oil Taxation Act 1975.

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- (6) In the preceding provisions of this paragraph “oil exploration or exploitation activities” means activities carried on in connection with—
- (a) the exploration of land (including the seabed and subsoil) in the United Kingdom or a designated area, as defined in sub-paragraph (4) above, with a view to searching for or winning oil; or
  - (b) the exploitation of oil found in any such land;
- and in this sub-paragraph “oil” has the same meaning as in Part I of the <sup>M17</sup>Oil Taxation Act 1975.
- (7) Where the person making the disposal acquired the asset on a no gain/no loss disposal, the references in sub-paragraph (2) above to that person are references to the person making the disposal, the person who last acquired the asset otherwise than on a no gain/no loss disposal or any person who subsequently acquired the asset on such a disposal.
- (8) In this paragraph—
- (a) “source of mineral deposits” shall be construed in accordance with section 121 of the 1990 Act, and
  - (b) references to a no gain/no loss disposal shall be construed in accordance with paragraph 1 above.

#### Textual Amendments

**F10** Words in Sch. 3 para. 7(2)(c) substituted (15.2.1999) by [Petroleum Act 1998 \(c. 17\)](#), s. 52(4), [Sch. 4 para. 32\(4\)](#) (with [Sch. 3](#)); [S.I. 1999/161](#), art. 2(1)

#### Marginal Citations

**M14** [1964 c. 28 \(N.1.\)](#).

**M15** [1964 c. 29](#).

**M16** [1975 c. 22](#).

**M17** [1975 c. 22](#).

#### *Elections under section 35(5): groups of companies*

- 8 (1) A company may not make an election under section 35(5) at a time when it is a member but not the principal company of a group unless the company did not become a member of the group until after the relevant time.
- (2) Subject to sub-paragraph (3) below, an election under section 35(5) by a company which is the principal company of a group shall have effect also as an election by any other company which at the relevant time is a member of the group.
- (3) Sub-paragraph (2) above shall not apply in relation to a company which, in some period after 5th April 1988 and before the relevant time, is not a member of the group if—
- (a) during that period the company makes a disposal to which section 35 applies, and
  - (b) the period during which an election under subsection (5) of that section could be made expires without such an election having been made.

*Status: Point in time view as at 15/02/1999.*

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- (4) Sub-paragraph (2) above shall apply in relation to a company notwithstanding that the company ceases to be a member of the group at any time after the relevant time except where—
- (a) the company is an outgoing company in relation to the group, and
  - (b) the election relating to the group is made after the company ceases to be a member of the group.
- (5) In relation to a company which is the principal company of a group the reference in section 35(6) to the first relevant disposal is a reference to the first disposal to which that section applies by a company which is—
- (a) a member of the group but not an outgoing company in relation to the group, or
  - (b) an incoming company in relation to the group.
- 9 (1) In paragraph 8 above “the relevant time”, in relation to a group of companies, is—
- (a) the first time when any company which is then a member of the group, and is not an outgoing company in relation to the group, makes a disposal to which section 35 applies,
  - (b) the time immediately following the first occasion when a company which is an incoming company in relation to the group becomes a member of the group,
  - (c) the time when an election is made by the principal company,
- whichever is earliest.
- (2) In paragraph 8 above and this paragraph—
- “incoming company”, in relation to a group of companies, means a company which—
- (a) makes its first disposal to which section 35 applies at a time when it is not a member of the group, and
  - (b) becomes a member of the group before the end of the period during which an election under section 35(5) could be made in relation to it and at a time when no such election has been made, and
- “outgoing company”, in relation to a group of companies, means a company which ceases to be a member of the group before the end of the period during which an election under section 35(5) could be made in relation to it and at a time when no such election has been made.
- (3) Section 170 shall have effect for the purposes of paragraph 8 above and this paragraph as for those of sections 170 to 181.

## SCHEDULE 4

Section 36.

### DEFERRED CHARGES ON GAINS BEFORE 31ST MARCH 1982

#### *Reduction of deduction or gain*

- 1 Where this Schedule applies—
- (a) in a case within paragraph 2 below, the amount of the deduction referred to in that paragraph, and

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- (b) in a case within paragraph 3 or 4 below, the amount of the gain referred to in that paragraph,  
shall be one half of what it would be apart from this Schedule.

*Charges rolled-over or held-over*

- 2 (1) Subject to sub-paragraphs (2) to (4) below, this Schedule applies on a disposal, not being a no gain/no loss disposal, of an asset if—
- (a) the person making the disposal acquired the asset after 31st March 1982,
  - (b) a deduction falls to be made by virtue of any of the enactments specified in sub-paragraph (5) below from the expenditure which is allowable in computing the amount of any gain accruing on the disposal, and
  - (c) the deduction is attributable (whether directly or indirectly and whether in whole or in part) to a chargeable gain accruing on the disposal before 6th April 1988 of an asset acquired before 31st March 1982 by the person making that disposal.
- (2) This Schedule does not apply where, by reason of the previous operation of this Schedule, the amount of the deduction is less than it otherwise would be.
- (3) This Schedule does not apply if the amount of the deduction would have been less had relief by virtue of a previous application of this Schedule been duly claimed.
- (4) Where—
- (a) the asset was acquired on or after 19th March 1991,
  - (b) the deduction is partly attributable to a claim by virtue of section 154(4), and
  - (c) the claim applies to the asset,
- this Schedule does not apply by virtue of this paragraph.
- (5) The enactments referred to in sub-paragraph (1) above are sections 23(4) and (5), 152, 162, 165 and 247 of this Act and section 79 of the <sup>M18</sup>Finance Act 1980.

**Marginal Citations**

**M18** 1980 c. 48.

- 3 (1) This paragraph applies where this Schedule would have applied on a disposal but for paragraph 2(4) above.
- (2) This Schedule applies on the disposal if paragraph 4 below would have applied had—
- (a) section 154(2) continued to apply to the gain carried forward as a result of the claim by virtue of section 154(4), and
  - (b) the time of the disposal been the time when that gain was treated as accruing by virtue of section 154(2).

*Postponed charges*

- 4 (1) Subject to sub-paragraphs (3) to (5) below, this Schedule applies where—
- (a) a gain is treated as accruing by virtue of any of the enactments specified in sub-paragraph (2) below, and

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- (b) that gain is attributable (whether directly or indirectly and whether in whole or in part) to the disposal before 6th April 1988 of an asset acquired before 31st March 1982 by the person making that disposal.
- (2) The enactments referred to in sub-paragraph (1) above are sections 116(10) and (11), 134, 140, 154(2), 168 (as modified by section 67(6)), 178(3), 179(3) and 248(3).
- (3) Where a gain is treated as accruing by virtue of section 178(3) or 179(3), this Schedule applies only if the asset was acquired by the chargeable company (within the meaning of section 178 or 179) before 6th April 1988.
- (4) Where a gain is treated as accruing in consequence of an event, this Schedule does not apply if—
  - (a) the gain is attributable (whether directly or indirectly and whether in whole or part) to the disposal of an asset on or after 6th April 1988, or
  - (b) the amount of the gain would have been less had relief by virtue of a previous application of this Schedule been duly claimed.
- (5) None of sections 134, 140(4), 154(2) and 248(3) shall apply in consequence of an event occurring on or after 6th April 1988 if its application would be directly attributable to the disposal of an asset on or before 31st March 1982.

*Previous no gain/no loss disposals*

- 5       Where—
  - (a) a person makes a disposal of an asset which he acquired on or after 31st March 1982, and
  - (b) the disposal by which he acquired the asset and any previous disposal of the asset on or after 31st March 1982 was a no gain/no loss disposal,
 he shall be treated for the purposes of paragraphs 2(1)(c) and 4(1)(b) above as having acquired the asset before 31st March 1982.
- 6       (1) Sub-paragraph (2) below applies where—
  - (a) a person makes a disposal of an asset which he acquired on or after 31st March 1982,
  - (b) the disposal by which he acquired the asset was a no gain/no loss disposal, and
  - (c) a deduction falling to be made as mentioned in paragraph (b) of sub-paragraph (1) of paragraph 2 above which was attributable as mentioned in paragraph (c) of that sub-paragraph was made—
    - (i) on that disposal, or
    - (ii) where one or more earlier no gain/no loss disposals of the asset have been made on or after 31st March 1982 and since the last disposal of the asset which was not a no gain/no loss disposal, on any such earlier disposal.
- (2) Where this sub-paragraph applies the deduction shall be treated for the purposes of paragraph 2 above as falling to be made on the disposal mentioned in sub-paragraph (1)(a) above and not on the no gain/no loss disposal.
- 7       For the purposes of this Schedule a no gain/no loss disposal is one on which by virtue of any of the enactments specified in section 35(3)(d) neither a gain nor a loss accrues to the person making the disposal.



*Status: Point in time view as at 15/02/1999.**Changes to legislation: Taxation of Chargeable Gains Act 1992 is up to date with all changes known to be in force on or before 10 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)**Assets derived from other assets*

- 8 The references in paragraphs 2(1)(c) and 4(1)(b) above to the disposal of an asset acquired by a person before 31st March 1982 include references to the disposal of an asset which was not acquired by the person before that date if its value is derived from another asset which was so acquired and of which account is to be taken in relation to the disposal under section 43.

*Claims*

- 9 (1) No relief shall be given under this Schedule unless a claim is made—
- (a) in the case of a gain treated as accruing by virtue of section 178(3) or 179(3) to a company which ceases to be a member of a group, within the period of 2 years beginning at the end of the accounting period in which the company ceases to be a member of the group,
  - (b) in [<sup>F11</sup>the case of a disposal made by, or a gain treated as accruing to, a person chargeable to corporation tax], within the period of 2 years beginning at the end of the <sup>F12</sup>... accounting period in which the disposal in question is made, or the gain in question is treated as accruing,
  - [<sup>F13</sup>(c) in the case of a disposal made by, or a gain treated as accruing to, a person who is chargeable to capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the disposal in question is made or the gain in question is treated as accruing,]  
or within such longer period [<sup>F14</sup>or (as the case may be) on or before such later date] as the Board may by notice allow.
- (2) A claim under sub-paragraph (1) above shall be supported by such particulars as the inspector may require for the purpose of establishing entitlement to relief under this Schedule and the amount of relief due.

**Textual Amendments**

- F11** Words in Sch. 4 para. 9(1)(b) substituted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 43\(a\)\(i\)](#)
- F12** Words in Sch. 4 para. 9(1)(b) repealed (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 43\(a\)\(ii\)](#), [Sch. 41 Pt. V\(11\)](#)
- F13** Sch. 4 para. 9(1)(c) inserted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 43\(b\)](#)
- F14** Words in Sch. 4 para. 9(1) inserted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 43\(c\)](#)

## SCHEDULE 5

Section 86.

ATTRIBUTION OF GAINS TO SETTLORS WITH INTEREST  
IN NON-RESIDENT OR DUAL RESIDENT SETTLEMENT*Construction of section 86(1)(e)*

- 1 (1) In construing section 86(1)(e) as regards a particular year of assessment, the effect of sections 3 and 77 to 79 shall be ignored.

*Status: Point in time view as at 15/02/1999.*

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- (2) In construing section 86(1)(e) as regards a particular year of assessment—
- (a) any deductions provided for by section 2(2) shall be made in respect of disposals of any of the settled property originating from the settlor, and
  - (b) section 16(3) shall be assumed not to prevent losses accruing to trustees in one year of assessment from being allowed as a deduction from chargeable gains accruing in a later year of assessment (so far as not previously set against gains).
- (3) In a case where—
- (a) the trustees [<sup>F15</sup>are participators in a company in respect of property which originates] from the settlor, and
  - (b) under section 13 gains or losses would be treated as accruing to the trustees in a particular year of assessment by virtue of [<sup>F16</sup>so much of their interest as participators as arises from that property] if the assumption as to residence specified in section 86(3) were made,
- the gains or losses shall be taken into account in construing section 86(1)(e) as regards that year as if they had accrued by virtue of disposals of settled property originating from the settlor.
- [<sup>F17</sup>Subsections (12) and (13) of section 13 shall apply for the purposes of this sub-paragraph as they apply for the purposes of that section.]
- (4) Where, as regards a particular year of assessment, there would be an amount under section 86(1)(e) (apart from this sub-paragraph) and the trustees fall within section 86(2)(b), the following rules shall apply—
- (a) assume that the references in section 86(1)(e) and sub-paragraphs (2)(a) and (3) above to settled property originating from the settlor were to such of it as constitutes protected assets;
  - (b) assume that the reference in sub-paragraph (3)(a) above to shares originating from the settlor were to such of them as constitute protected assets;
  - (c) find the amount (if any) which would be arrived at under section 86(1)(e) on those assumptions;
  - (d) if no amount is so found there shall be deemed to be no amount for the purposes of section 86(1)(e);
  - (e) if an amount is found under paragraph (c) above it must be compared with the amount arrived at under section 86(1)(e) apart from this sub-paragraph. and the smaller of the 2 shall be taken to be the amount arrived at under section 86(1)(e).
- (5) Sub-paragraphs (2) to (4) above shall have effect subject to sub-paragraphs (6) and (7) below.
- (6) The following rules shall apply in construing section 86(1)(e) as regards a particular year of assessment (“the year concerned”) in a case where the trustees fall within section 86(2)(a)—
- (a) if the conditions mentioned in section 86(1) are not fulfilled as regards the settlement in any year of assessment falling before the year concerned, no deductions shall be made in respect of losses accruing before the year concerned;
  - (b) if the conditions mentioned in section 86(1) are fulfilled as regards the settlement in any year or years of assessment falling before the year

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concerned, no deductions shall be made in respect of losses accruing before that year (or the first of those years) so falling,

but nothing in the preceding provisions of this sub-paragraph shall prevent deductions being made in respect of losses accruing in a year of assessment in which the conditions mentioned in section 86(1)(a) to (d) and (f) are fulfilled as regards the settlement.

- (7) In construing section 86(1)(e) as regards a particular year of assessment and in relation to a settlement created before 19th March 1991, no account shall be taken of disposals made before 19th March 1991 (whether for the purpose of arriving at gains or for the purpose of arriving at losses).
- (8) For the purposes of sub-paragraph (4) above assets are protected assets if—
- (a) they are of a description specified in the arrangements mentioned in section 86(2)(b), and
  - (b) were the trustees to dispose of them at any relevant time, the trustees would fall to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to them on the disposal.
- (9) For the purposes of sub-paragraph (8) above—
- (a) the assumption as to residence specified in section 86(3) shall be ignored;
  - (b) a relevant time is any time, in the year of assessment concerned, when the trustees fall to be regarded for the purposes of the arrangements as resident in a territory outside the United Kingdom;
  - (c) if different assets are identified by reference to different relevant times, all of them are protected assets.

#### Textual Amendments

- F15** Words in Sch. 5 para. 1(3)(a) substituted (with application in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 174\(10\)\(a\)](#)
- F16** Words in Sch. 5 para. 1(3)(b) substituted (with application in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 174\(10\)\(b\)](#)
- F17** Words in Sch. 5 para. 1(3) added (with application in accordance with s. 174(11) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 174\(10\)\(c\)](#)

#### *Test whether settlor has interest*

- 2 (1) For the purposes of section 86(1)(d) a settlor has an interest in a settlement if—
- (a) any relevant property which is or may at any time be comprised in the settlement is, or will or may become, applicable for the benefit of or payable to a defined person in any circumstances whatever,
  - (b) any relevant income which arises or may arise under the settlement is, or will or may become, applicable for the benefit of or payable to a defined person in any circumstances whatever, or
  - (c) any defined person enjoys a benefit directly or indirectly from any relevant property which is comprised in the settlement or any relevant income arising under the settlement;

but this sub-paragraph is subject to sub-paragraphs (4) to (6) <sup>F18</sup> and paragraph 2A] below.

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- (2) For the purposes of sub-paragraph (1) above—
- (a) relevant property is property originating from the settlor,
  - (b) relevant income is income originating from the settlor.
- (3) For the purposes of sub-paragraph (1) above each of the following is a defined person—
- (a) the settlor,
  - (b) the settlor's spouse;
  - (c) any child of the settlor or of the settlor's spouse;
  - (d) the spouse of any such child;
  - <sup>F19</sup>(da) any grandchild of the settlor or of the settlor's spouse;
  - (db) the spouse of any such grandchild;
  - (e) a company controlled by a person or persons falling within paragraphs (a) to <sup>F20</sup>(db) above;
  - (f) a company associated with a company falling within paragraph (e) above.
- (4) A settlor does not have an interest in a settlement by virtue of paragraph (a) of sub-paragraph (1) above at any time when none of the property concerned can become applicable or payable as mentioned in that paragraph except in the event of—
- (a) the bankruptcy of some person who is or may become beneficially entitled to the property,
  - (b) any assignment of or charge on the property being made or given by some such person,
  - (c) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, or
  - (d) the death under the age of 25 or some lower age of some person who would be beneficially entitled to the property on attaining that age.
- (5) A settlor does not have an interest in a settlement by virtue of paragraph (a) of sub-paragraph (1) above at any time when some person is alive and under the age of 25 if during that person's life none of the property concerned can become applicable or payable as mentioned in that paragraph except in the event of that person becoming bankrupt or assigning or charging his interest in the property concerned.
- (6) Sub-paragraphs (4) and (5) above apply for the purposes of paragraph (b) of sub-paragraph (1) above as they apply for the purposes of paragraph (a), reading "income" for "property".
- <sup>F21</sup>(7) In this paragraph—
- "child" includes a stepchild; and
  - "grandchild" means a child of a child.]
- (8) For the purposes of sub-paragraph (3) above the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (9) For the purposes of sub-paragraph (3) above the question whether a company is associated with another shall be construed in accordance with section 416 of the Taxes Act; but where in deciding that question for those purposes it falls to be decided whether a company is controlled by a person or persons, no rights or powers of (or

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attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.

- (10) In sub-paragraphs (8) and (9) “participator” has the meaning given by section 417(1) of the Taxes Act.

#### Textual Amendments

- F18** Words in Sch. 5 para. 2(1) inserted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 22 para. 2\(1\)](#)
- F19** Sch. 5 para. 2(3)(da)(db) inserted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 131\(1\)\(a\)](#)
- F20** Word in Sch. 5 para. 2(3)(e) substituted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 131\(1\)\(b\)](#)
- F21** Sch. 5 para. 2(7) substituted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 131\(2\)](#)

#### *F<sup>22</sup> Settlements created before 17th March 1998*

#### Textual Amendments

- F22** Sch. 5 para. 2A and cross-heading inserted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 22 para. 2\(2\)](#)

- 2A (1) In determining for the purposes of section 86(1)(d) whether the settlor has an interest at any time during any year of assessment in a settlement created before 17th March 1998, paragraphs (da) and (db) of paragraph 2(3) above, and the reference to those paragraphs in paragraph 2(3)(e), shall be disregarded unless—
- (a) that year is a year in which one of the four conditions set out in the following provisions of this paragraph becomes fulfilled as regards the settlement; or
  - (b) one of those conditions became fulfilled as regards that settlement in any previous year of assessment ending on or after 5th April 1998.
- (2) The first condition is (subject to sub-paragraph (3) below) that on or after 17th March 1998 property or income is provided directly or indirectly for the purposes of the settlement—
- (a) otherwise than under a transaction entered into at arm’s length, and
  - (b) otherwise than in pursuance of a liability incurred by any person before that date.
- (3) For the purposes of the first condition, where the settlement’s expenses relating to administration and taxation for a year of assessment exceed its income for the year, property or income provided towards meeting those expenses shall be ignored if the value of the property or income so provided does not exceed the difference between the amount of those expenses and the amount of the settlement’s income for the year.
- (4) The second condition is that—
- (a) the trustees become on or after 17th March 1998 neither resident nor ordinarily resident in the United Kingdom, or
  - (b) the trustees, while continuing to be resident and ordinarily resident in the United Kingdom, become on or after 17th March 1998 trustees who fall to

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be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.

- (5) The third condition is that on or after 17th March 1998 the terms of the settlement are varied so that any person falling within sub-paragraph (7) below becomes for the first time a person who will or might benefit from the settlement.
- (6) The fourth condition is that—
- (a) on or after 17th March 1998 a person falling within sub-paragraph (7) below enjoys a benefit from the settlement for the first time, and
  - (b) the person concerned is not one who (looking only at the terms of the settlement immediately before 17th March 1998) would be capable of enjoying a benefit from the settlement on or after that date.
- (7) Each of the following persons falls within this sub-paragraph—
- (a) any grandchild of the settlor or of the settlor's spouse;
  - (b) the spouse of any such grandchild;
  - (c) a company controlled by a person or persons falling within paragraph (a) or (b) above;
  - (d) a company controlled by any such person or persons together with any person or persons (not so falling) each of whom is for the purposes of paragraph 2(1) above a defined person in relation to the settlement;
  - (e) a company associated with a company falling within paragraph (c) or (d) above.
- (8) For the purposes of sub-paragraph (7) above the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (9) For the purposes of sub-paragraph (7) above the question whether one company is associated with another shall be construed in accordance with section 416 of the Taxes Act; but where in deciding that question for those purposes it falls to be decided whether a company is controlled by a person or persons, no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (10) In this paragraph—
- 'child' includes a step-child;
  - 'grandchild' means a child of a child;
  - 'participator' has the meaning given by section 417(1) of the Taxes Act.]

*Exceptions from section 86*

- 3       Section 86 does not apply if the settlor dies in the year.
- 4       (1) This paragraph applies where for the purposes of section 86(1)(d) the settlor has no interest in the settlement at any time in the year except for one of the following reasons, namely, that—
- (a) property is, or will or may become, applicable for the benefit of or payable to one of the persons falling within paragraph 2(3)(b) to [F23(db)] above,

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- (b) income is, or will or may become, applicable for the benefit of or payable to one of those persons, or
  - (c) one of those persons enjoys a benefit from property or income.
- (2) This paragraph also applies where sub-paragraph (1) above is fulfilled by virtue of 2 or all of paragraphs (a) to (c) being satisfied by reference to the same person.
- (3) Where this paragraph applies, section 86 does not apply if the person concerned dies in the year.
- (4) In a case where—
- (a) this paragraph applies, and
  - (b) the person concerned falls within paragraph 2(3)(b)<sup>F24</sup>, (d) or (db)] above, section 86 does not apply if during the year the person concerned ceases to be married to the settlor<sup>F25</sup>, child or grandchild] concerned (as the case may be).

**Textual Amendments**

- F23** Word in Sch. 5 para. 4(1)(a) substituted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 22 para. 3\(1\)](#)
- F24** Words in Sch. 5 para. 4(4)(b) substituted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 22 para. 3\(2\)\(a\)](#)
- F25** Words in Sch. 5 para. 4(4) substituted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 22 para. 3\(2\)\(b\)](#)

- 5 (1) This paragraph applies where for the purposes of section 86(1)(d) the settlor has no interest in the settlement at any time in the year except for the reason that there are 2 or more persons, each of whom—
- (a) falls within paragraph 2(3)(b) to <sup>F26</sup>(db)] above, and
  - (b) stands to gain for the reason stated in sub-paragraph (2) below.
- (2) The reason is that—
- (a) property is, or will or may become, applicable for his benefit or payable to him,
  - (b) income is, or will or may become, applicable for his benefit or payable to him,
  - (c) he enjoys a benefit from property or income, or
  - (d) 2 or all of paragraphs (a) to (c) above apply in his case.
- (3) Where this paragraph applies, section 86 does not apply if each of the persons concerned dies in the year.

**Textual Amendments**

- F26** Word in Sch. 5 para. 5(1)(a) substituted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 22 para. 3\(1\)](#)

*Right of recovery*

- 6 (1) This paragraph applies where any tax becomes chargeable on, and is paid by, a person in respect of gains treated as accruing to him in a year under section 86(4).

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- (2) The person shall be entitled to recover the amount of the tax from any person who is a trustee of the settlement.
- (3) For the purposes of recovering that amount, the person shall also be entitled to require an inspector to give him a certificate specifying—
- (a) the amount of the gains concerned, and
  - (b) the amount of tax paid,
- and any such certificate shall be conclusive evidence of the facts stated in it.

*Meaning of “settlor”*

- 7 For the purposes of section 86 and this Schedule, a person is a settlor in relation to a settlement if the settled property consists of or includes property originating from him.

*Meaning of “originating”*

- 8 (1) References in section 86 and this Schedule to property originating from a person are references to—
- (a) property provided by that person;
  - (b) property representing property falling within paragraph (a) above;
  - (c) so much of any property representing both property falling within paragraph (a) above and other property as, on a just apportionment, can be taken to represent property so falling.
- (2) References in this Schedule to income originating from a person are references to—
- (a) income from property originating from that person;
  - (b) income provided by that person.
- (3) Where a person who is a settlor in relation to a settlement makes reciprocal arrangements with another person for the provision of property or income, for the purposes of this paragraph—
- (a) property or income provided by the other person in pursuance of the arrangements shall be treated as provided by the settlor, but
  - (b) property or income provided by the settlor in pursuance of the arrangements shall be treated as provided by the other person (and not by the settlor).
- (4) For the purposes of this paragraph—
- (a) where property is provided by a qualifying company controlled by one person alone at the time it is provided, that person shall be taken to provide it;
  - (b) where property is provided by a qualifying company controlled by 2 or more persons (taking each one separately) at the time it is provided, those persons shall be taken to provide the property and each one shall be taken to provide an equal share of it;
  - (c) where property is provided by a qualifying company controlled by 2 or more persons (taking them together) at the time it is provided, the persons who are participators in the company at the time it is provided shall be taken to provide it and each one shall be taken to provide so much of it as is attributed to him on the basis of a just apportionment;



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but where a person would be taken to provide less than one-twentieth of any property by virtue of paragraph (c) above and apart from this provision, he shall not be taken to provide any of it by virtue of that paragraph.

- (5) For the purposes of sub-paragraph (4) above a qualifying company is a close company or a company which would be a close company if it were resident in the United Kingdom.
- (6) For the purposes of this paragraph references to property representing other property include references to property representing accumulated income from that other property.
- (7) For the purposes of this paragraph property or income is provided by a person if it is provided directly or indirectly by the person.
- (8) For the purposes of this paragraph the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (9) In this paragraph “participator” has the meaning given by section 417(1) of the Taxes Act.

<sup>F27</sup>(10) . . . . .

#### Textual Amendments

**F27** Sch. 5 para. 8(10) repealed (with effect in accordance with Sch. 41 Pt. 5(30) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 41 Pt. V(30)**

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

**C4** Sch. 5 para. 8 applied (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), **Sch. 23 para. 6(6)**

#### *Qualifying settlements, and commencement*

- 9 (1) A settlement created on or after 19th March 1991 is a qualifying settlement for the purposes of section 86 and this Schedule in—
- (a) the year of assessment in which it is created, and
  - (b) subsequent years of assessment.
- <sup>F28</sup>(1A) Subject to sub-paragraph (1B) below, a settlement created before 19th March 1991 is a qualifying settlement for the purposes of section 86 and this Schedule in—
- (a) the year 1999-00, and
  - (b) subsequent years of assessment.
- (1B) Where a settlement created before 19th March 1991 is a protected settlement immediately after the beginning of 6th April 1999, that settlement shall be treated as a qualifying settlement for the purposes of section 86 and this Schedule in a year of assessment mentioned in sub-paragraph (1A)(a) or (b) above only if—
- (a) any of the five conditions set out in subsections (3) to (6A) below becomes fulfilled as regards the settlement in that year; or

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- (b) any of those five conditions became so fulfilled in any previous year of assessment ending after 19th March 1991.]

<sup>F29</sup>(2) .....

- (3) The first condition is that on or after 19th March 1991 property or income is provided directly or indirectly for the purposes of the settlement—

- (a) otherwise than under a transaction entered into at arm’s length, and
- (b) otherwise than in pursuance of a liability incurred by any person before that date;

but if the settlement’s expenses relating to administration and taxation for a year of assessment exceed its income for the year, property or income provided towards meeting those expenses shall be ignored for the purposes of this condition if the value of the property or income so provided does not exceed the difference between the amount of those expenses and the amount of the settlement’s income for the year.

- (4) The second condition is that—

- (a) the trustees become on or after 19th March 1991 neither resident nor ordinarily resident in the United Kingdom, or
- (b) the trustees, while continuing to be resident and ordinarily resident in the United Kingdom, become on or after 19th March 1991 trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.

- (5) The third condition is that on or after 19th March 1991 the terms of the settlement are varied so that any person falling within sub-paragraph (7) below becomes for the first time a person who will or might benefit from the settlement.

- (6) The fourth condition is that—

- (a) on or after 19th March 1991 a person falling within sub-paragraph (7) below enjoys a benefit from the settlement for the first time, and
- (b) the person concerned is not one who (looking only at the terms of the settlement immediately before 19th March 1991) would be capable of enjoying a benefit from the settlement on or after that date.

<sup>F30</sup>(6A) The fifth condition is that the settlement ceases to be a protected settlement at any time on or after 6th April 1999.]

- (7) Each of the following persons falls within this sub-paragraph—

- (a) a settlor;
- (b) the spouse of a settlor;
- (c) any child of a settlor or of a settlor’s spouse;
- (d) the spouse of any such child;
- <sup>F31</sup>(da) any grandchild of a settlor or of a settlor’s spouse;
- (db) the spouse of any such grandchild;]
- (e) a company controlled by a person or persons falling within paragraphs (a) to <sup>F32</sup>(db)] above;
- (f) a company associated with a company falling within paragraph (e) above.

<sup>F33</sup>(8) .....

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- (9) For the purposes of sub-paragraph (7) above the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (10) For the purposes of sub-paragraph (7) above the question whether one company is associated with another shall be construed in accordance with section 416 of the Taxes Act; but where in deciding that question for those purposes it falls to be decided whether a company is controlled by a person or persons, no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- [<sup>F34</sup>(10A) Subject to sub-paragraph (10B) below, a settlement is a protected settlement at any time in a year of assessment if at that time the beneficiaries of that settlement are confined to persons falling within some or all of the following descriptions, that is to say—
- (a) children of a settlor or of a spouse of a settlor who are under the age of eighteen at that time or who were under that age at the end of the immediately preceding year of assessment;
  - (b) unborn children of a settlor, of a spouse of a settlor, or of a future spouse of a settlor;
  - (c) future spouses of any children or future children of a settlor, a spouse of a settlor or any future spouse of a settlor;
  - (d) a future spouse of a settlor;
  - (e) persons outside the defined categories.
- (10B) For the purposes of sub-paragraph (10A) above a person is outside the defined categories at any time if, and only if, there is no settlor by reference to whom he is at that time a defined person in relation to the settlement for the purposes of paragraph 2(1) above.
- (10C) For the purposes of sub-paragraph (10A) above a person is a beneficiary of a settlement if—
- (a) there are any circumstances whatever in which relevant property which is or may become comprised in the settlement is or will or may become applicable for his benefit or payable to him;
  - (b) there are any circumstances whatever in which relevant income which arises or may arise under the settlement is or will or may become applicable for his benefit or payable to him;
  - (c) he enjoys a benefit directly or indirectly from any relevant property comprised in the settlement or any relevant income arising under the settlement.
- (10D) In sub-paragraph (10C) above—  
“relevant property” means property originating from a settlor; and  
“relevant income” means income originating from a settlor.]
- [<sup>F35</sup>(11) In this paragraph—  
“child” includes a step-child;  
“grandchild” means a child of a child;  
“participator” has the meaning given by section 417(1) of the Taxes Act.]

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**Textual Amendments**

- F28** Sch. 5 para. 9(1A)(1B) inserted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 132\(1\)](#)
- F29** Sch. 5 para. 9(2) repealed (for the purpose of determining whether any settlement is a qualifying settlement in the year 1999-00 or any subsequent year of assessment) by [Finance Act 1998 \(c. 36\), s. 132\(2\)](#), [Sch. 27 Pt. III\(30\)](#)
- F30** Sch. 5 para. 9(6A) inserted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 132\(3\)](#)
- F31** Sch. 5 para. 9(7)(da)(db) inserted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 22 para. 4\(1\)\(a\)](#) (with [Sch. 22 para. 4\(3\)](#))
- F32** Word in Sch. 5 para. 9(7)(e) substituted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 22 para. 4\(1\)\(b\)](#) (with [Sch. 22 para. 4\(3\)](#))
- F33** Sch. 5 para. 9(8) repealed (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 27 Pt. III\(30\)](#)
- F34** Sch. 5 para. 9(10A)-(10D) inserted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 132\(4\)](#)
- F35** Sch. 5 para. 9(11) substituted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 22 para. 4\(2\)](#)

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

- C5** Sch. 5 para. 9(10A)(a) applied (with modifications) (31.7.1998) by [Finance Act 1998 \(c. 36\), Sch. 23 para. 6\(3\)](#)

*Information*

10 An inspector may by notice require any person who is or has been a trustee of, a beneficiary under, or a settlor in relation to, a settlement to give him within such time as he may direct (which must not be less than 28 days beginning with the day the notice is given) such particulars as he thinks necessary for the purposes of section 86 and this Schedule and specifies in the notice.

F36<sup>11</sup> .....

**Textual Amendments**

- F36** Sch. 5 paras. 11-14 repealed (with effect in accordance with s. 97(5) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 97\(4\), Sch. 26 Pt. V\(10\)](#)

F36<sup>12</sup> .....

**Textual Amendments**

- F36** Sch. 5 paras. 11-14 repealed (with effect in accordance with s. 97(5) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 97\(4\), Sch. 26 Pt. V\(10\)](#)

F36<sup>13</sup> .....

**Textual Amendments**

- F36** Sch. 5 paras. 11-14 repealed (with effect in accordance with s. 97(5) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 97\(4\), Sch. 26 Pt. V\(10\)](#)

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F36 14 .....

**Textual Amendments**

**F36** Sch. 5 paras. 11-14 repealed (with effect in accordance with s. 97(5) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 97\(4\)](#), [Sch. 26 Pt. V\(10\)](#)

[<sup>F37</sup>SCHEDULE 5A

Section 98A.

SETTLEMENTS WITH FOREIGN ELEMENT: INFORMATION

**Textual Amendments**

**F37** Sch. 5A inserted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 97\(3\)](#)

- 1 In this Schedule “the commencement day” means the day on which the Finance Act 1994 was passed.
- 2 (1) This paragraph applies if—
  - (a) a settlement was created before [<sup>F38</sup>17th March 1998],
  - (b) on or after the commencement day a person transfers property to the trustees otherwise than under a transaction entered into at arm’s length and otherwise than in pursuance of a liability incurred by any person before that day,
  - (c) the trustees are not resident or ordinarily resident in the United Kingdom at the time the property is transferred, and
  - (d) the transferor knows, or has reason to believe, that the trustees are not so resident or ordinarily resident.
- (2) Before the expiry of the period of twelve months beginning with the relevant day, the transferor shall deliver to the Board a return which—
  - (a) identifies the settlement, and
  - (b) specifies the property transferred, the day on which the transfer was made, and the consideration (if any) for the transfer.
- (3) For the purposes of sub-paragraph (2) above the relevant day is the day on which the transfer is made.

**Textual Amendments**

**F38** Words in Sch. 5A para. 2(1)(a) substituted (with effect in accordance with s. 131(4) of, Sch. 22 para. 5(2) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 22 para. 5\(1\)](#)

- 3 (1) This paragraph applies if a settlement is created on or after the commencement day, and at the time it is created—
  - (a) the trustees are not resident or ordinarily resident in the United Kingdom, or
  - (b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.

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- (2) Any person who—
- (a) is a settlor in relation to the settlement at the time it is created, and
  - (b) at that time fulfils the condition mentioned in sub-paragraph (3) below,
- shall, before the expiry of the period of three months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (4) below.
- (3) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.
- (4) The particulars are—
- (a) the day on which the settlement was created;
  - (b) the name and address of the person delivering the return;
  - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (5) For the purposes of sub-paragraph (2) above the relevant day is the day on which the settlement is created.
- 4 (1) This paragraph applies if a settlement is created on or after 19th March 1991, and at the time it is created—
- (a) the trustees are not resident or ordinarily resident in the United Kingdom, or
  - (b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who—
- (a) is a settlor in relation to the settlement at the time it is created,
  - (b) at that time does not fulfil the condition mentioned in sub-paragraph (3) below, and
  - (c) first fulfils that condition at a time falling on or after the commencement day,
- shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (4) below.
- (3) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.
- (4) The particulars are—
- (a) the day on which the settlement was created;
  - (b) the name and address of the person delivering the return;
  - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (5) For the purposes of sub-paragraph (2) above the relevant day is the day on which the person first fulfils the condition as mentioned in paragraph (c) of that sub-paragraph.
- 5 (1) This paragraph applies if—
- (a) the trustees of a settlement become at any time (the relevant time) on or after the commencement day neither resident nor ordinarily resident in the United Kingdom, or

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- (b) the trustees of a settlement, while continuing to be resident and ordinarily resident in the United Kingdom, become at any time (the relevant time) on or after the commencement day trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who was a trustee of the settlement immediately before the relevant time shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying—
  - (a) the day on which the settlement was created,
  - (b) the name and address of each person who is a settlor in relation to the settlement immediately before the delivery of the return, and
  - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (3) For the purposes of sub-paragraph (2) above the relevant day is the day when the relevant time falls.
- 6 (1) Nothing in paragraph 2, 3, 4 or 5 above shall require information to be contained in the return concerned to the extent that—
  - (a) before the expiry of the period concerned the information has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or
  - (b) after the expiry of the period concerned the information falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.
- (2) Nothing in paragraph 2, 3, 4 or 5 above shall require a return to be delivered if—
  - (a) before the expiry of the period concerned all the information concerned has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or
  - (b) after the expiry of the period concerned all the information concerned falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.]

## [<sup>F39</sup>SCHEDULE 5B

### ENTERPRISE INVESTMENT SCHEME: RE-INVESTMENT

#### Textual Amendments

**F39** Sch. 5B inserted (with effect in accordance with Sch. 13 para. 4(4) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 13 para. 4\(3\)](#)

#### *Application of Schedule*

- 1 (1) This Schedule applies where—
  - (a) there would (apart from paragraph 2(2)(a) below) be a chargeable gain (“the original gain”) accruing to an individual (“the investor”) at any time (“the accrual time”) on or after 29th November 1994;

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- (b) the gain is one accruing either on the disposal by the investor of any asset or in accordance with [<sup>F40</sup>section 164F or 164FA,] paragraphs 4 and 5 below or paragraphs 4 and 5 of Schedule 5C;
  - (c) the investor makes a qualifying investment; and
  - (d) the investor is resident or ordinarily resident in the United Kingdom at the accrual time and the time when he makes the qualifying investment and is not, in relation to the qualifying investment, a person to whom sub-paragraph (4) below applies.
- [<sup>F41</sup>(2) The investor makes a qualifying investment for the purposes of this Schedule if—
- (a) eligible shares in a company for which he has subscribed wholly in cash are issued to him at a qualifying time and, where that time is before the accrual time, the shares are still held by the investor at the accrual time,
  - (b) the company is a qualifying company in relation to the shares,
  - (c) at the time when they are issued the shares are fully paid up (disregarding for this purpose any undertaking to pay cash to the company at a future date),
  - (d) the shares are subscribed for, and issued, for bona fide commercial purposes and not as part of arrangements the main purpose or one of the main purposes of which is the avoidance of tax,
  - (e) the requirements of section 289(1A) of the Taxes Act are satisfied in relation to the company,
  - (f) all the shares comprised in the issue are issued in order to raise money for the purpose of a qualifying business activity, and
  - (g) the money raised by the issue is employed not later than the time mentioned in section 289(3) of the Taxes Act wholly for the purpose of that activity,
- and for the purposes of this Schedule, the condition in paragraph (g) above does not fail to be satisfied by reason only of the fact that an amount of money which is not significant is employed for another purpose.
- (3) In sub-paragraph (2) above “a qualifying time”, in relation to any shares subscribed for by the investor, means—
- (a) any time in the period beginning one year before and ending three years after the accrual time, or
  - (b) any such time before the beginning of that period or after it ends as the Board may by notice allow.]
- (4) This sub-paragraph applies to the investor in relation to a qualifying investment if—
- (a) though resident or ordinarily resident in the United Kingdom at the time when he makes the investment, he is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom, and
  - (b) were section 150A to be disregarded, the arrangements would have the effect that he would not be liable in the United Kingdom to tax on a gain arising on a disposal, immediately after their acquisition, of the shares acquired in making that investment.

#### Textual Amendments

**F40** Words in Sch. 5B para. 1(1)(b) inserted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 27\(1\)](#)



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**F41** Sch. 5B para. 1(2)(3) substituted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 27\(2\)](#)

### *<sup>F42</sup>Failure of conditions of application*

#### **Textual Amendments**

**F42** Sch. 5B para. 1A and cross-heading inserted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 28](#)

- 1A (1) If the condition in sub-paragraph (2)(b) of paragraph 1 above is not satisfied in consequence of an event occurring after the issue of eligible shares, the shares shall be treated for the purposes of this Schedule as ceasing to be eligible shares on the date of the event.
- (2) If the condition in sub-paragraph (2)(e) of that paragraph is not satisfied in consequence of an event occurring after the issue of eligible shares, the shares shall be treated for the purposes of this Schedule as ceasing to be eligible shares on the date of the event.
- (3) If the condition in sub-paragraph (2)(f) of that paragraph is not satisfied in relation to an issue of eligible shares, the shares shall be treated for the purposes of this Schedule as never having been eligible shares.
- (4) If the condition in sub-paragraph (2)(g) of that paragraph is not satisfied in relation to an issue of eligible shares, the shares shall be treated for the purposes of this Schedule—
- (a) if the claim under this Schedule is made after the time mentioned in section 289(3) of the Taxes Act, as never having been eligible shares; and
- (b) if that claim is made before that time, as ceasing to be eligible shares at that time.
- (5) None of the preceding sub-paragraphs applies unless—
- (a) the company has given notice under paragraph 16(2) or (4) below or section 310(2) of the Taxes Act; or
- (b) an inspector has given notice to the company stating that, by reason of the matter mentioned in that sub-paragraph, the shares should, in his opinion, be treated for the purposes of this Schedule as never having been or, as the case may be, as ceasing to be eligible shares.
- (6) The giving of notice by an inspector under sub-paragraph (5) above shall be taken, for the purposes of the provisions of the Management Act relating to appeals against decisions on claims, to be a decision refusing a claim made by the company.
- (7) Where any issue has been determined on an appeal brought by virtue of section 307(1B) of the Taxes Act (appeal against notice that relief was not due), the determination shall be conclusive for the purposes of any appeal brought by virtue of sub-paragraph (6) above on which that issue arises.]

### *Postponement of original gain*

- 2 (1) On the making of a claim by the investor for the purposes of this Schedule, so much of the investor's unused qualifying expenditure on relevant shares as—

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- (a) is specified in the claim, and
  - (b) does not exceed so much of the original gain as is unmatched,
- shall be set against a corresponding amount of the original gain.
- (2) Where an amount of qualifying expenditure on any relevant shares is set under this Schedule against the whole or part of the original gain—
- (a) so much of that gain as is equal to that amount shall be treated as not having accrued at the accrual time; but
  - (b) paragraphs 4 and 5 below shall apply for determining the gain that is to be treated as accruing on the occurrence of any chargeable event in relation to any of those relevant shares.
- (3) For the purposes of this Schedule—
- <sup>F43</sup>(a) the investor’s qualifying expenditure on any relevant shares is the amount subscribed by him for the shares; and]
  - (b) that expenditure is unused to the extent that it has not already been set under this Schedule against the whole or any part of a chargeable gain.
- (4) For the purposes of this paragraph the original gain is unmatched, in relation to any qualifying expenditure on relevant shares, to the extent that it has not had any other expenditure set against it under this Schedule or Schedule 5C.

**Textual Amendments**

**F43** Sch. 5B para. 2(3)(a) substituted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 13 para. 29**

*Chargeable events*

- 3 (1) Subject to the following provisions of this paragraph, there is for the purposes of this Schedule a chargeable event in relation to any relevant shares if, after the making of the qualifying investment—
- (a) the investor disposes of those shares otherwise than by way of a disposal within marriage;
  - (b) those shares are disposed of, otherwise than by way of a disposal to the investor, by a person who acquired them on a disposal made by the investor within marriage;
  - (c) the investor becomes a non-resident while holding those shares and within <sup>F44</sup>the five year period];
  - (d) a person who acquired those shares on a disposal within marriage becomes a non-resident while holding those shares and within <sup>F44</sup>the five year period]; <sup>F45</sup>or
  - (e) those shares cease (or are treated for the purposes of this Schedule as ceasing) to be eligible shares.]
- <sup>F46</sup>(2) .....
- (3) For the purposes of this Schedule there shall not be a chargeable event by virtue of sub-paragraph (1)(c) or (d) above in relation to any shares if—

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- (a) the reason why the person in question becomes a non-resident is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and
  - (b) he again becomes resident or ordinarily resident in the United Kingdom within the period of three years from the time when he became a non-resident, without having meanwhile disposed of any of those shares;
- and accordingly no assessment shall be made by virtue of sub-paragraph (1)(c) or (d) above before the end of that period in a case where the condition in paragraph (a) above is satisfied and the condition in paragraph (b) above may be satisfied.
- (4) For the purposes of sub-paragraph (3) above a person shall be taken to have disposed of any shares if and only if there has been such a disposal as would have been a chargeable event in relation to those shares if the person making the disposal had been resident in the United Kingdom.
- (5) Where in any case—
- (a) the investor or a person who has acquired any relevant shares on a disposal within marriage dies, and
  - (b) an event occurs at or after the time of the death which (apart from this sub-paragraph) would be a chargeable event in relation to any relevant shares held by the deceased immediately before his death,
- that event shall not be a chargeable event in relation to the shares so held.

[ Any reference in the following provisions of this Schedule to a chargeable event <sup>F47</sup>(6) falling within a particular paragraph of sub-paragraph (1) above is a reference to a chargeable event arising for the purposes of this Schedule by virtue of that paragraph.]

#### Textual Amendments

- F44** Words in Sch. 5B para. 3(1)(c)(d) substituted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 30\(1\)\(a\)](#)
- F45** Sch. 5B para. 3(1)(e) and preceding word substituted for Sch. 5B para. 3(1)(e)(f) (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 30\(1\)\(b\)](#)
- F46** Sch. 5B para. 3(2) repealed (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 30\(2\)](#), [Sch. 27 Pt. III\(14\)](#)
- F47** Sch. 5B para. 3(6) inserted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 30\(3\)](#)

#### *Gain accruing on chargeable event*

- 4 (1) On the occurrence of a chargeable event in relation to any relevant shares in relation to which there has not been a previous chargeable event—
- (a) a chargeable gain shall be treated as accruing at the time of the event; and
  - (b) the amount of the gain shall be equal to so much of the original gain as is an amount against which there has under this Schedule been set any expenditure on those shares.
- [<sup>F48</sup>(2) Any question for the purposes of capital gains tax as to whether any shares to which a disposal (including a disposal within marriage) relates are shares to which deferral relief is attributable shall be determined in accordance with sub-paragraphs (3) and (4) below.

*Status: Point in time view as at 15/02/1999.*

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- (3) Where shares of any class in a company have been acquired by an individual on different days, any disposal by him of shares of that class shall be treated as relating to those acquired on an earlier day rather than to those acquired on a later day.
- (4) Where shares of any class in a company have been acquired by an individual on the same day, any of those shares disposed of by him shall be treated as disposed of in the following order, namely—
- (a) first any to which neither deferral relief nor relief under Chapter III of Part VII of the Taxes Act is attributable;
  - (b) next any to which deferral relief, but not relief under that Chapter, is attributable;
  - (c) next any to which relief under that Chapter, but not deferral relief, is attributable; and
  - (d) finally any to which both deferral relief and relief under that Chapter are attributable.
- (4A) The following, namely—
- (a) any shares to which deferral relief, but not relief under Chapter III of Part VII of the Taxes Act, is attributable and which were disposed of to an individual by a disposal within marriage, and
  - (b) any shares to which relief under that Chapter is attributable and which were transferred to an individual as mentioned in section 304 of that Act,
- shall be treated for the purposes of sub-paragraphs (3) and (4) above as acquired by him on the day on which they were issued.
- (4B) Chapter I of Part IV of this Act has effect subject to sub-paragraphs (2) to (4A) above.
- (4C) Sections 104, 105 and 106A shall not apply to shares to which deferral relief, but not relief under Chapter III of Part VII of the Taxes Act, is attributable.]
- (5) Where at the time of a chargeable event any relevant shares are treated for the purposes of this Act as represented by assets which consist of or include assets other than those shares—
- (a) the expenditure on those shares which was set against the gain in question shall be treated, in determining for the purposes of this paragraph the amount of expenditure on each of those assets which is to be treated as having been set against that gain, as apportioned in such manner as may be just and reasonable between those assets; and
  - (b) as between different assets treated as representing the same relevant shares, [F<sup>49</sup>sub-paragraphs (3) to (4A) above] shall apply with the necessary modifications in relation to those assets as they would apply in relation to the shares.

#### **Textual Amendments**

- F48** Sch. 5B para. 4(2)-(4C) substituted for Sch. 5B para. 4(2)-(4) (with effect in accordance with Sch. 13 para. 31(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 31\(1\)](#)
- F49** Words in Sch. 5B para. 4(5)(b) substituted (with effect in accordance with Sch. 13 para. 31(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 31\(2\)](#)

*Status: Point in time view as at 15/02/1999.*

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*Person to whom gain accrues*

- 5 (1) The chargeable gain which accrues, in accordance with paragraph 4 above, on the occurrence in relation to any relevant shares of a chargeable event shall be treated as accruing, as the case may be—
- (a) to the person who makes the disposal,
  - (b) to the person who becomes a non-resident, <sup>F50</sup>or
  - (c) to the person who holds the shares in question when they cease (or are treated for the purposes of this Schedule as ceasing) to be eligible shares.]
- (2) Where—
- (a) sub-paragraph (1) above provides for the holding of shares at a particular time to be what identifies the person to whom any chargeable gain accrues, and
  - (b) at that time, some of those shares are held by the investor and others are held by a person to whom the investor has transferred them by a disposal within marriage,
- the amount of the chargeable gain accruing by virtue of paragraph 4 above shall be computed separately in relation to the investor and that person without reference to the shares held by the other.

**Textual Amendments**

**F50** Sch. 5B para. 5(1)(c) and preceding word substituted for Sch. 5B para. 5(1)(c)(d) (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 32](#)

<sup>F51</sup>*Claims*

**Textual Amendments**

**F51** Sch. 5B para. 6 and cross-heading substituted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 33](#)

- 6 (1) Subject to sub-paragraph (2) below, section 306 of the Taxes Act shall apply in relation to a claim under this Schedule in respect of relevant shares as it applies in relation to a claim for relief under Chapter III of Part VII of that Act in respect of eligible shares.
- (2) That section, as it so applies, shall have effect as if—
- (a) any reference to the conditions for the relief were a reference to the conditions for the application of this Schedule;
  - (b) in subsection (1), the words “(or treated by section 289B(5) as so issued)” were omitted; and
  - (c) subsections (7) to (9) were omitted.]

*Status: Point in time view as at 15/02/1999.*

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## *F<sup>52</sup> Reorganisations*

### **Textual Amendments**

**F52** Sch. 5B paras. 7-9 and cross-headings inserted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 13 para. 34**

- 7 (1) Where an individual holds shares which form part of the ordinary share capital of a company and include shares of more than one of the following kinds, namely—
- (a) shares to which deferral relief and relief under Chapter III of Part VII of the Taxes Act are attributable,
  - (b) shares to which deferral relief but not relief under that Chapter is attributable, and
  - (c) shares to which deferral relief is not attributable,
- then, if there is within the meaning of section 126 a reorganisation affecting those shares, section 127 shall apply (subject to the following provisions of this paragraph) separately to shares falling within paragraph (a), (b) or (c) above (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).
- (2) Where—
- (a) an individual holds shares (“the existing holding”) which form part of the ordinary share capital of a company,
  - (b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation affecting the existing holding, and
  - (c) immediately following the reorganisation, the existing holding or the allotted shares are shares to which deferral relief is attributable,
- sections 127 to 130 shall not apply in relation to the existing holding.

### *Acquisition of share capital by new company*

- 8 (1) This paragraph applies where—
- (a) a company (“the new company”) in which the only issued shares are subscriber shares acquires all the shares (“old shares”) in another company (“the old company”);
  - (b) the consideration for the old shares consists wholly of the issue of shares (“new shares”) in the new company;
  - (c) the consideration for new shares of each description consists wholly of old shares of the corresponding description;
  - (d) new shares of each description are issued to the holders of old shares of the corresponding description in respect of and in proportion to their holdings;
  - (e) at some time before the issue of the new shares—
    - (i) the old company issued eligible shares; and
    - (ii) a certificate in relation to those eligible shares was issued by that company for the purposes of subsection (2) of section 306 of the Taxes Act (as applied by paragraph 6 above) and in accordance with that section (as so applied); and
  - (f) by virtue of section 127 as applied by section 135(3), the exchange of shares is not treated as involving a disposal of the old shares or an acquisition of the new shares.

*Status: Point in time view as at 15/02/1999.*

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- (2) For the purposes of this Schedule, deferral relief attributable to any old shares shall be attributable instead to the new shares for which they are exchanged.
- (3) Where, in the case of any new shares held by an individual to which deferral relief becomes so attributable, the old shares for which they are exchanged were subscribed for by and issued to the individual, this Schedule shall have effect as if—
  - (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for by him;
  - (b) the new shares had been issued to him by the new company at the time when the old shares were issued to him by the old company; and
  - (c) the claim under this Schedule made in respect of the old shares had been made in respect of the new shares.
- (4) Where, in the case of any new shares held by an individual to which deferral relief becomes so attributable, the old shares for which they are exchanged were acquired by the individual on a disposal within marriage, this Schedule shall have effect as if—
  - (a) the new shares had been subscribed for at the time when, and for the amount for which, the old shares were subscribed for;
  - (b) the new shares had been issued by the new company at the time when the old shares were issued by the old company; and
  - (c) the claim under this Schedule made in respect of the old shares had been made in respect of the new shares.
- (5) Where deferral relief becomes so attributable to any new shares—
  - (a) this Schedule shall have effect as if anything which, under paragraph 1A(5) above, paragraph 16 below or section 306(2) of the Taxes Act as applied by paragraph 6 above has been done, or is required to be done, by or in relation to the old company had been done, or were required to be done, by or in relation to the new company; and
  - (b) any appeal brought by the old company against a notice under paragraph 1A(5)(b) may be prosecuted by the new company as if it had been brought by that company.
- (6) For the purposes of this paragraph old shares and new shares are of a corresponding description if, on the assumption that they were shares in the same company, they would be of the same class and carry the same rights; and in sub-paragraph (1) above references to shares, except in the expressions “eligible shares” and “subscriber shares”, include references to securities.
- (7) Nothing in section 293(8) of the Taxes Act, as applied by the definition of “qualifying company” in paragraph 19(1) below, shall apply in relation to such an exchange of shares, or shares and securities, as is mentioned in sub-paragraph (1) above or arrangements with a view to such an exchange.

*Other reconstructions and amalgamations*

- 9 (1) Subject to sub-paragraphs (2) and (3) below, sections 135 and 136 shall not apply in respect of shares to which deferral relief, but not relief under Chapter III of Part VII of the Taxes Act, is attributable.
- (2) Sub-paragraph (1) above shall not have effect to disapply section 135 or 136 where—



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- (a) the new holding consists of new ordinary shares (“the new shares”) carrying no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future right to be redeemed,
  - (b) the new shares are issued after the end of the relevant period, and
  - (c) the condition in sub-paragraph (4) below is satisfied.
- (3) Sub-paragraph (1) above shall not have effect to disapply section 135 where shares to which deferral relief, but not relief under Chapter III of Part VII of the Taxes Act, is attributable are exchanged for other shares in such circumstances as are mentioned in paragraph 8(1) above.
- (4) The condition is that at some time before the issue of the new shares—
- (a) the company issuing them issued eligible shares, and
  - (b) a certificate in relation to those eligible shares was issued by the company for the purposes of subsection (2) of section 306 of the Taxes Act (as applied by paragraph 6 above) and in accordance with that section (as so applied).
- (5) In sub-paragraph (2) above “new holding” shall be construed in accordance with sections 126, 127, 135 and 136.]

*[<sup>F53</sup>Re-investment in same company etc.*

#### **Textual Amendments**

**F53** Sch. 5B paras. 10-15 and cross-headings inserted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 35](#)

- 10 (1) An individual to whom any eligible shares in a qualifying company are issued shall not be regarded for the purposes of this Schedule as making a qualifying investment if, where the asset disposed of consisted of shares in or other securities of any company (“the initial holding”), the qualifying company—
- (a) is the company in which the initial holding subsisted; or
  - (b) is a company that was, at the time of the disposal of the initial holding, or is, at the time of the issue of the eligible shares, a member of the same group of companies as the company in which the initial holding subsisted.
- (2) Where—
- (a) any eligible shares in a qualifying company (“the acquired holding”) are issued to an individual,
  - (b) an amount of qualifying expenditure on those shares has been set under this Schedule against the whole or part of any chargeable gain (the “postponed gain”), and
  - (c) after the issue of those shares, eligible shares in a relevant company are issued to him,
- he shall not be regarded in relation to the issue to him of the shares in the relevant company as making a qualifying investment for the purposes of this Schedule.
- (3) For the purposes of sub-paragraph (2) above a company is a relevant company if—
- (a) where that individual has disposed of any of the acquired holding, it is the company in which the acquired holding has subsisted or a company which



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was a member of the same group of companies as that company at any time since the acquisition of the acquired holding;

- (b) it is a company in relation to the disposal of any shares in which there has been a claim under this Schedule such that, without that claim, there would have been no postponed gain in relation to the acquired holding; or
- (c) it is a company which, at the time of the disposal or acquisition to which the claim relates, was a member of the same group of companies as a company falling within paragraph (b) above.

#### *Pre-arranged exits*

- 11 (1) Where an individual subscribes for eligible shares (“the shares”) in a company, the shares shall be treated as not being eligible shares for the purposes of this Schedule if the relevant arrangements include—
- (a) arrangements with a view to the subsequent repurchase, exchange or other disposal of the shares or of other shares in or securities of the same company;
  - (b) arrangements for or with a view to the cessation of any trade which is being or is to be or may be carried on by the company or a person connected with the company;
  - (c) arrangements for the disposal of, or of a substantial amount of, the assets of the company or of a person connected with the company;
  - (d) arrangements the main purpose of which, or one of the main purposes of which, is (by means of any insurance, indemnity or guarantee or otherwise) to provide partial or complete protection for persons investing in shares in that company against what would otherwise be the risks attached to making the investment.
- (2) The arrangements referred to in sub-paragraph (1)(a) above do not include any arrangements with a view to such an exchange of shares, or shares and securities, as is mentioned in paragraph 8(1) above.
- (3) The arrangements referred to in sub-paragraph (1)(b) and (c) above do not include any arrangements applicable only on the winding up of a company except in a case where—
- (a) the relevant arrangements include arrangements for the company to be wound up; or
  - (b) the company is wound up otherwise than for bona fide commercial reasons.
- (4) The arrangements referred to in sub-paragraph (1)(d) above do not include any arrangements which are confined to the provision—
- (a) for the company itself, or
  - (b) in the case of a company which is a parent company of a trading group, for the company itself, for the company itself and one or more of its subsidiaries or for one or more of its subsidiaries,
- of any such protection against the risks arising in the course of carrying on its business as it might reasonably be expected so to provide in normal commercial circumstances.
- (5) The reference in sub-paragraph (4) above to the parent company of a trading group shall be construed in accordance with the provision contained for the purposes of section 293 of the Taxes Act in that section.
- (6) In this paragraph “the relevant arrangements” means—

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- (a) the arrangements under which the shares are issued to the individual; and
- (b) any arrangements made before the issue of the shares to him in relation to or in connection with that issue.

*Put options and call options*

- 12 (1) Sub-paragraph (2) below applies where an individual subscribes for eligible shares ("the shares") in a company and—
- (a) an option, the exercise of which would bind the grantor to purchase such shares, is granted to the individual during the relevant period; or
  - (b) an option, the exercise of which would bind the individual to sell such shares, is granted by the individual during the relevant period.
- (2) The shares to which the option relates shall be treated for the purposes of this Schedule—
- (a) if the option is granted on or before the date of the issue of the shares, as never having been eligible shares; and
  - (b) if the option is granted after that date, as ceasing to be eligible shares on the date when the option is granted.
- (3) The shares to which the option relates shall be taken to be those which, if—
- (a) the option were exercised immediately after the grant, and
  - (b) any shares in the company acquired by the individual after the grant were disposed of immediately after being acquired,
- would be treated for the purposes of this Schedule as disposed of in pursuance of the option.
- (4) Nothing in this paragraph shall prejudice the operation of paragraph 11 above.
- (5) An individual who acquires any eligible shares on a disposal within marriage shall be treated for the purposes of this paragraph and paragraphs 13 to 15 below as if he subscribed for those shares.

*Value received by investor*

- 13 (1) Where an individual who subscribes for eligible shares ("the shares") in a company receives any value from the company at any time in the seven year period, the shares shall be treated as follows for the purposes of this Schedule—
- (a) if the individual receives the value on or before the date of the issue of the shares, as never having been eligible shares; and
  - (b) if the individual receives the value after that date, as ceasing to be eligible shares on the date when the value is received.
- (2) For the purposes of this paragraph an individual receives value from the company if the company—
- (a) repays, redeems or repurchases any of its share capital or securities which belong to the individual or makes any payment to him for giving up his right to any of the company's share capital or any security on its cancellation or extinguishment;
  - (b) repays, in pursuance of any arrangements for or in connection with the acquisition of the shares, any debt owed to the individual other than a debt which was incurred by the company—

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- (i) on or after the date on which he subscribed for the shares; and
    - (ii) otherwise than in consideration of the extinguishment of a debt incurred before that date;
  - (c) makes to the individual any payment for giving up his right to any debt on its extinguishment;
  - (d) releases or waives any liability of the individual to the company or discharges, or undertakes to discharge, any liability of his to a third person;
  - (e) makes a loan or advance to the individual which has not been repaid in full before the issue of the shares;
  - (f) provides a benefit or facility for the individual;
  - (g) disposes of an asset to the individual for no consideration or for a consideration which is or the value of which is less than the market value of the asset;
  - (h) acquires an asset from the individual for a consideration which is or the value of which is more than the market value of the asset; or
  - (i) makes any payment to the individual other than a qualifying payment.
- (3) For the purposes of sub-paragraph (2)(e) above there shall be treated as if it were a loan made by the company to the individual—
- (a) the amount of any debt (other than an ordinary trade debt) incurred by the individual to the company; and
  - (b) the amount of any debt due from the individual to a third person which has been assigned to the company.
- (4) For the purposes of this paragraph an individual also receives value from the company if he receives in respect of ordinary shares held by him any payment or asset in a winding up or in connection with a dissolution of the company, being a winding up or dissolution falling within section 293(6) of the Taxes Act.
- (5) For the purposes of this paragraph an individual also receives value from the company if any person who would, for the purposes of section 291 of the Taxes Act, be treated as connected with the company—
- (a) purchases any of its share capital or securities which belong to the individual; or
  - (b) makes any payment to him for giving up any right in relation to any of the company's share capital or securities.
- (6) Where an individual's disposal of shares in a company gives rise to a chargeable event falling within paragraph 3(1)(a) or (b) above, the individual shall not be treated for the purposes of this paragraph as receiving value from the company in respect of the disposal.
- (7) In this paragraph "qualifying payment" means—
- (a) the payment by any company of such remuneration for service as an officer or employee of that company as may be reasonable in relation to the duties of that office or employment;
  - (b) any payment or reimbursement by any company of travelling or other expenses wholly, exclusively and necessarily incurred by the individual to whom the payment is made in the performance of duties as an officer or employee of that company;
  - (c) the payment by any company of any interest which represents no more than a reasonable commercial return on money lent to that company;

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- (d) the payment by any company of any dividend or other distribution which does not exceed a normal return on any investment in shares in or other securities of that company;
  - (e) any payment for the supply of goods which does not exceed their market value;
  - (f) any payment for the acquisition of an asset which does not exceed its market value;
  - (g) the payment by any company, as rent for any property occupied by the company, of an amount not exceeding a reasonable and commercial rent for the property;
  - (h) any reasonable and necessary remuneration which—
    - (i) is paid by any company for services rendered to that company in the course of a trade or profession; and
    - (ii) is taken into account in computing the profits of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits are assessed under that Schedule;
  - (i) a payment in discharge of an ordinary trade debt.
- (8) For the purposes of this paragraph a company shall be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.
- (9) In this paragraph—
- (a) references to a debt or liability do not, in relation to a company, include references to any debt or liability which would be discharged by the making by that company of a qualifying payment; and
  - (b) references to a benefit or facility do not include references to any benefit or facility provided in circumstances such that, if a payment had been made of an amount equal to its value, that payment would be a qualifying payment.
- (10) In this paragraph—
- (a) any reference to a payment or disposal to an individual includes a reference to a payment or disposal made to him indirectly or to his order or for his benefit;
  - (b) any reference to an individual includes a reference to an associate of his; and
  - (c) any reference to a company includes a reference to a person who at any time in the relevant period is connected with the company, whether or not he is so connected at the material time.
- (11) In this paragraph “ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business where any credit given—
- (a) does not exceed six months; and
  - (b) is not longer than that normally given to customers of the person carrying on the trade or business.

*Value received by other persons*

- 14 (1) Sub-paragraph (2) below applies where an individual subscribes for eligible shares (“the shares”) in a company and at any time in the seven year period the company or any subsidiary—

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- (a) repays, redeems or repurchases any of its share capital which belongs to any member other than the individual or an individual falling within sub-paragraph (3) below, or
  - (b) makes any payment (directly or indirectly) to any such member, or to his order or for his benefit, for the giving up of his right to any of the share capital of the company or subsidiary on its cancellation or extinguishment.
- (2) The shares shall be treated for the purposes of this Schedule—
  - (a) if the repayment, redemption, repurchase or payment in question is made or effected on or before the date of the issue of the shares, as never having been eligible shares; and
  - (b) if it is made or effected after that date, as ceasing to be eligible shares on the date when it is made or effected.
- (3) An individual falls within this sub-paragraph if the repayment, redemption, repurchase or payment in question—
  - (a) gives rise to a qualifying chargeable event in respect of him, or
  - (b) causes any relief under Chapter III of Part VII of the Taxes Act attributable to his shares in the company to be withdrawn or reduced by virtue of section 299 or 300(2)(a) of that Act.
- (4) In sub-paragraph (3) above “qualifying chargeable event” means—
  - (a) a chargeable event falling within paragraph 3(1)(a) or (b) above; or
  - (b) a chargeable event falling within paragraph 3(1)(e) above by virtue of sub-paragraph (1)(b) of paragraph 13 above (as it applies by virtue of sub-paragraph (2)(a) of that paragraph).
- (5) Where—
  - (a) a company issues share capital (“the original shares”) of nominal value equal to the authorised minimum (within the meaning of the Companies Act 1985) for the purposes of complying with the requirements of section 117 of that Act (public company not to do business unless requirements as to share capital complied with), and
  - (b) after the registrar of companies has issued the company with a certificate under section 117, it issues eligible shares,the preceding provisions of this paragraph shall not apply in relation to any redemption of any of the original shares within 12 months of the date on which those shares were issued.
- (6) In relation to companies incorporated under the law of Northern Ireland references in sub-paragraph (5) above to the Companies Act 1985 and to section 117 of that Act shall have effect as references to the Companies (Northern Ireland) Order 1986 and to Article 127 of that Order.
- (7) References in this paragraph to a subsidiary of a company are references to a company which at any time in the relevant period is a 51 per cent. subsidiary of the first mentioned company, whether or not it is such a subsidiary at the time of the repayment, redemption, repurchase or payment in question.

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### *Investment-linked loans*

- 15 (1) Where at any time in the relevant period an investment-linked loan is made by any person to an individual who subscribes for eligible shares (“the shares”) in a company, the shares shall be treated for the purposes of this Schedule—
- (a) if the loan is made on or before the date of the issue of the shares, as never having been eligible shares; and
  - (b) if the loan is made after that date, as ceasing to be eligible shares on the date when the loan is made.
- (2) A loan made by any person to an individual is an investment-linked loan for the purposes of this paragraph if the loan is one which would not have been made, or would not have been made on the same terms, if the individual had not subscribed for the shares or had not been proposing to do so.
- (3) References in this paragraph to the making by any person of a loan to an individual include references—
- (a) to the giving by that person of any credit to that individual; and
  - (b) to the assignment or assignation to that person of any debt due from that individual.
- (4) In this paragraph any reference to an individual includes a reference to an associate of his.]

### *[<sup>F54</sup>Information*

#### **Textual Amendments**

**F54** Sch. 5B paras. 16-19 and cross-headings inserted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 36](#)

- 16 (1) Where, in relation to any relevant shares held by an individual—
- (a) a chargeable event falling within paragraph 3(1)(a) or (b) above occurs at any time in the five year period,
  - (b) a chargeable event falling within paragraph 3(1)(c) or (d) above occurs, or
  - (c) a chargeable event falling within paragraph 3(1)(e) above occurs by virtue of paragraph 12(2)(b), 13(1)(b) or 15(1)(b) above,
- the individual shall within 60 days of his coming to know of the event give a notice to the inspector containing particulars of the circumstances giving rise to the event.
- (2) Where, in relation to any relevant shares in a company, a chargeable event falling within paragraph 3(1)(e) above occurs by virtue of paragraph 1A(1) or (2), 13(1)(b) or 14(2)(b) above—
- (a) the company, and
  - (b) any person connected with the company who has knowledge of that matter,
- shall within 60 days of the event or, in the case of a person within paragraph (b) above, of his coming to know of it, give a notice to the inspector containing particulars of the circumstances giving rise to the event.
- (3) A chargeable event falling within paragraph 3(1)(e) above which, but for paragraph 1A(5) above, would occur at any time by virtue of paragraph 1A(1) or (2) above shall be treated for the purposes of sub-paragraph (2) above as occurring at that time.

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- (4) Where a company has issued a certificate under section 306(2) of the Taxes Act (as applied by paragraph 6 above) in respect of any eligible shares in the company, and the condition in paragraph 1(2)(g) above is not satisfied in relation to the shares—
- (a) the company, and
  - (b) any person connected with the company who has knowledge of that matter,
- shall within 60 days of the time mentioned in section 289(3) of the Taxes Act or, in the case of a person within paragraph (b) above, of his coming to know that the condition is not satisfied, give notice to the inspector setting out the particulars of the case.
- (5) If the inspector has reason to believe that a person has not given a notice which he is required to give—
- (a) under sub-paragraph (1) or (2) above in respect of any chargeable event, or
  - (b) under sub-paragraph (4) above in respect of any particular case,
- the inspector may by notice require that person to furnish him within such time (not being less than 60 days) as may be specified in the notice with such information relating to the event or case as the inspector may reasonably require for the purposes of this Schedule.
- (6) Where a claim is made under this Schedule in respect of shares in a company and the inspector has reason to believe that it may not be well founded by reason of any such arrangements as are mentioned in paragraphs 1(2)(d) or 11(1) above, or section 293(8) or 308(2)(e) of the Taxes Act, he may by notice require any person concerned to furnish him within such time (not being less than 60 days) as may be specified in the notice with—
- (a) a declaration in writing stating whether or not, according to the information which that person has or can reasonably obtain, any such arrangements exist or have existed;
  - (b) such other information as the inspector may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.
- (7) For the purposes of sub-paragraph (6) above, the persons who are persons concerned are—
- (a) in relation to paragraph 1(2)(d) above, the claimant, the company and any person controlling the company;
  - (b) in relation to paragraph 11(1) above, the claimant, the company and any person connected with the company; and
  - (c) in relation to section 293(8) or 308(2)(e) of the Taxes Act, the company and any person controlling the company;
- and for those purposes the references in paragraphs (a) and (b) above to the claimant include references to any person to whom the claimant appears to have made a disposal within marriage of any of the shares in question.
- (8) Where deferral relief is attributable to shares in a company—
- (a) any person who receives from the company any payment or asset which may constitute value received (by him or another) for the purposes of paragraph 13 above, and
  - (b) any person on whose behalf such a payment or asset is received,

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shall, if so required by the inspector, state whether the payment or asset received by him or on his behalf is received on behalf of any person other than himself and, if so, the name and address of that person.

- (9) Where a claim has been made under this Schedule in relation to shares in a company, any person who holds or has held shares in the company and any person on whose behalf any such shares are or were held shall, if so required by the inspector, state—
- (a) whether the shares which are or were held by him or on his behalf are or were held on behalf of any person other than himself; and
  - (b) if so, the name and address of that person.
- (10) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a company that relief has been given or claimed in respect of a particular number or proportion of its shares.

*Trustees: general*

- 17 (1) Subject to the following provisions of this paragraph, this Schedule shall apply as if—
- (a) any reference to an individual included a reference to the trustees of a settlement, and
  - (b) in relation to any such trustees, the reference in paragraph 1(1) above to any asset were a reference to any asset comprised in any settled property to which this paragraph applies (a “trust asset”).
- (2) This paragraph applies—
- (a) to any settled property in which the interests of the beneficiaries are not interests in possession, if all the beneficiaries are individuals, and
  - (b) to any settled property in which the interests of the beneficiaries are interests in possession, if any of the beneficiaries are individuals.
- (3) If, at the time of the disposal of the trust asset in a case where this Schedule applies by virtue of this paragraph—
- (a) the settled property comprising that asset is property to which this paragraph applies by virtue of sub-paragraph (2)(b) above, but
  - (b) not all the beneficiaries are individuals,
- only the relevant proportion of the gain which would accrue to the trustees on the disposal shall be taken into account for the purposes of this Schedule as it so applies.
- (4) This Schedule shall not apply by virtue of this paragraph in a case where, at the time of the disposal of the trust asset, the settled property which comprises that asset is property to which this paragraph applies by virtue of sub-paragraph (2)(a) above unless, immediately after the acquisition of the relevant shares, the settled property comprising the shares is also property to which this paragraph applies by virtue of sub-paragraph (2)(a) above.
- (5) This Schedule shall not apply by virtue of this paragraph in a case where, at the time of the disposal of the trust asset, the settled property which comprises that asset is property to which this paragraph applies by virtue of sub-paragraph (2)(b) above unless, immediately after the acquisition of the relevant shares—
- (a) the settled property comprising the shares is also property to which this paragraph applies by virtue of sub-paragraph (2)(b) above, and



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- (b) if not all the beneficiaries are individuals, the relevant proportion is not less than the proportion which was the relevant proportion at the time of the disposal of the trust asset.
- (6) If, at any time, in the case of settled property to which this paragraph applies by virtue of sub-paragraph (2)(b) above, both individuals and others have interests in possession, “the relevant proportion” at that time is the proportion which the amount specified in paragraph (a) below bears to the amount specified in paragraph (b) below, that is—
- (a) the total amount of the income of the settled property, being income the interests in which are held by beneficiaries who are individuals, and
  - (b) the total amount of all the income of the settled property.
- (7) Where, in the case of any settled property in which any beneficiary holds an interest in possession, one or more beneficiaries (“the relevant beneficiaries”) hold interests not in possession, this paragraph shall apply as if—
- (a) the interests of the relevant beneficiaries were a single interest in possession, and
  - (b) that interest were held, where all the relevant beneficiaries are individuals, by an individual and, in any other case, by a person who is not an individual.
- (8) In this paragraph references to interests in possession do not include interests for a fixed term and, except in sub-paragraph (1), references to individuals include any charity.

#### *Trustees: anti-avoidance*

- 18 (1) Paragraphs 13 and 15 above shall have effect in relation to the subscription for shares by the trustees of a settlement as if references to the individual subscribing for the shares were references to—
- (a) those trustees;
  - (b) any individual or charity by virtue of whose interest, at a relevant time, paragraph 17 above applies to the settled property; or
  - (c) any associate of such an individual, or any person connected with such a charity.
- (2) The relevant times for the purposes of sub-paragraph (1)(b) above are the time when the shares are issued and—
- (a) in a case where paragraph 13 above applies, the time when the value is received;
  - (b) in a case where paragraph 15 above applies, the time when the loan is made.

#### *Interpretation*

- 19 (1) For the purposes of this Schedule—
- “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;
  - “associate” has the meaning that would be given by subsections (3) and (4) of section 417 of the Taxes Act if in those subsections “relative” did not include a brother or sister;
  - “eligible shares” has the meaning given by section 289(7) of that Act;

*Status: Point in time view as at 15/02/1999.*

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“the five year period”, in the case of any relevant shares, means the period of five years beginning with the issue of the shares;

“non-resident” means a person who is neither resident nor ordinarily resident in the United Kingdom;

“ordinary share capital” has the same meaning as in the Taxes Act;

“ordinary shares”, in relation to a company, means shares forming part of its ordinary share capital;

“qualifying business activity” has the meaning given by section 289(2) of the Taxes Act;

“qualifying company”, in relation to any eligible shares, means a company which, in relation to those shares, is a qualifying company for the purposes of Chapter III of Part VII of that Act;

“the relevant period”, in the case of any shares, means the period found by applying section 312(1A)(a) of that Act by reference to the company that issued the shares and by reference to the shares;

“relevant shares”, in relation to a case to which this Schedule applies, means any of the shares which are acquired by the investor in making the qualifying investment;

“the seven year period” has the meaning given by section 291(6) of the Taxes Act.

- (2) For the purposes of this Schedule, “deferral relief” is attributable to any shares if—
- (a) expenditure on the shares has been set under this Schedule against the whole or part of any gain; and
  - (b) in relation to the shares there has been no chargeable event for the purposes of this Schedule.
- (3) In this Schedule—
- (a) references (however expressed) to an issue of eligible shares in any company are to any eligible shares in the company that are of the same class and are issued on the same day;
  - (b) references to a disposal within marriage are references to any disposal to which section 58 applies; and
  - (c) references to Chapter III of Part VII of the Taxes Act or any provision of that Chapter are to that Chapter or provision as it applies in relation to shares issued on or after 1st January 1994.
- (4) For the purposes of this Schedule shares in a company shall not be treated as being of the same class unless they would be so treated if dealt with on the Stock Exchange.
- (5) Notwithstanding anything in section 288(5), shares shall not for the purposes of this Schedule be treated as issued by reason only of being comprised in a letter of allotment or similar instrument.]]

*Status: Point in time view as at 15/02/1999.*

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## <sup>F55</sup>SCHEDULE 5C

### VENTURE CAPITAL TRUSTS: DEFERRED CHARGE ON RE-INVESTMENT

#### Textual Amendments

**F55** Sch. 5C inserted (with effect in accordance with s. 72(8) of the amending Act) by [Finance Act 1995](#) (c. 4), s. 72(4), [Sch. 16](#)

#### *Application of Schedule*

- 1 (1) This Schedule applies where—
  - (a) there would (apart from paragraph 2(2)(a) below) be a chargeable gain (“the original gain”) accruing to an individual (“the investor”) at any time (“the accrual time”) on or after 6th April 1995;
  - (b) that gain is one accruing on the disposal by the investor of any asset or in accordance with paragraphs 4 and 5 of Schedule 5B or paragraphs 4 and 5 below;
  - (c) the investor makes a qualifying investment; and
  - (d) the investor is resident or ordinarily resident in the United Kingdom at the accrual time and the time when he makes the qualifying investment and is not, in relation to the qualifying investment, a person to whom sub-paragraph (4) below applies.
- (2) The investor makes a qualifying investment for the purposes of this Schedule if—
  - (a) he subscribes for any shares by reference to which he is given relief under Part I of Schedule 15B to the Taxes Act on any amount;
  - (b) those shares are issued at a qualifying time; and
  - (c) where that time is before the accrual time, those shares are still held by the investor at the accrual time;and in this Schedule “relevant shares”, in relation to a case to which this Schedule applies, means any of the shares in a venture capital trust which are acquired by the investor in making the qualifying investment.
- (3) In this Schedule “a qualifying time”, in relation to any shares subscribed for by the investor, means—
  - (a) any time in the period beginning twelve months before the accrual time and ending twelve months after the accrual time, or
  - (b) any such time before the beginning of that period or after it ends as the Board may by notice allow.
- (4) This sub-paragraph applies to an individual in relation to a qualifying investment if—
  - (a) though resident or ordinarily resident in the United Kingdom at the time when he makes the investment, he is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom; and
  - (b) were section 151A(1) to be disregarded, the arrangements would have the effect that he would not be liable in the United Kingdom to tax on a gain arising on a disposal, immediately after their acquisition, of the shares acquired in making that investment.

*Status: Point in time view as at 15/02/1999.*

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### *The postponement of the original gain*

- 2 (1) On the making of a claim by the investor for the purposes of this Schedule, so much of the investor's unused qualifying expenditure on relevant shares as—
- (a) is specified in the claim, and
  - (b) does not exceed so much of the original gain as is unmatched,
- shall be set against a corresponding amount of the original gain.
- (2) Where the amount of any qualifying expenditure on any relevant shares is set under this Schedule against the whole or any part of the original gain—
- (a) so much of that gain as is equal to that amount shall be treated as not having accrued at the accrual time; but
  - (b) paragraphs 4 and 5 below shall apply for determining the gain that is to be treated as accruing on the occurrence of any chargeable event in relation to any of those relevant shares.
- (3) For the purposes of this Schedule, but subject to the following provisions of this paragraph—
- (a) the investor's qualifying expenditure on any relevant shares is the sum equal to the amount on which he is given relief under Part I of Schedule 15B to the Taxes Act by reference to those shares; and
  - (b) that expenditure is unused to the extent that it has not already been set under this Schedule against the whole or any part of a chargeable gain.
- (4) For the purposes of this paragraph the original gain is unmatched, in relation to any qualifying expenditure on relevant shares, to the extent that it has not had any other amount set against it under this Schedule or Schedule 5B.

### *Chargeable events*

- 3 (1) Subject to the following provisions of this paragraph, there is for the purposes of this Schedule a chargeable event in relation to any relevant shares if, after the making of the qualifying investment—
- (a) the investor disposes of those shares otherwise than by way of a disposal within marriage;
  - (b) those shares are disposed of, otherwise than by way of a disposal to the investor, by a person who acquired them on a disposal made by the investor within marriage;
  - (c) there is, in a case where those shares fall within section 151B(3)(c), such an actual or deemed exchange of those shares for any non-qualifying holdings as, under section 135 or 136, requires, or but for section 116 would require, those holdings to be treated for the purposes of this Act as the same assets as those shares;
  - (d) the investor becomes a non-resident while holding those shares and within the relevant period;
  - (e) a person who acquired those shares on a disposal within marriage becomes a non-resident while holding those shares and within the relevant period;
  - (f) the company in which those shares are shares has its approval as a venture capital trust withdrawn in a case to which section 842AA(8) of the Taxes Act does not apply; or

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- (g) the relief given under Part I of Schedule 15B to the Taxes Act by reference to those shares is withdrawn or reduced in circumstances not falling within any of paragraphs (a) to (f) above.
- (2) In sub-paragraph (1) above—
- “non-qualifying holdings” means any shares or securities other than any ordinary shares (within the meaning of section 151A) in a venture capital trust; and
- “the relevant period”, in relation to any relevant shares, means the period of five years beginning with the time when the investor made the qualifying investment by virtue of which he acquired those shares.
- (3) For the purposes of sub-paragraph (1) above there shall not be a chargeable event by virtue of sub-paragraph (1)(d) or (e) above in relation to any shares if—
- (a) the reason why the person in question becomes a non-resident is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and
- (b) he again becomes resident or ordinarily resident in the United Kingdom within the period of three years from the time when he became a non-resident, without having meanwhile disposed of any of those shares;
- and, accordingly, no assessment shall be made by virtue of sub-paragraph (1)(d) or (e) above before the end of that period in any case where the condition in paragraph (a) above is satisfied and the condition in paragraph (b) above may be satisfied.
- (4) For the purposes of sub-paragraph (3) above a person shall be taken to have disposed of any shares if and only if there has been such a disposal as would, if the person making the disposal had been resident in the United Kingdom, have been a chargeable event in relation to those shares.
- (5) Where in any case—
- (a) the investor or a person who has acquired any relevant shares on a disposal within marriage dies, and
- (b) an event occurs at or after the time of the death which (apart from this sub-paragraph) would be a chargeable event in relation to any relevant shares held by the deceased immediately before his death,
- that event shall not be chargeable event in relation to the shares so held.
- (6) Without prejudice to the operation of paragraphs 4 and 5 below in a case falling within sub-paragraph (1)(f) above, the references in this paragraph to a disposal shall not include references to the disposal which by virtue of section 151B(6) is deemed to take place in such a case.

#### *Gain accruing on chargeable event*

- 4 (1) On the occurrence of a chargeable event in relation to any relevant shares in relation to which there has not been a previous chargeable event—
- (a) a chargeable gain shall be treated as accruing at the time of the event; and
- (b) the amount of the gain shall be equal to so much of the original gain as is an amount against which there has under this Schedule been set any expenditure on those shares.
- (2) In determining for the purposes of this Schedule any question whether any shares to which a chargeable event relates are shares the expenditure on which has under

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this Schedule been set against the whole or any part of any gain, the assumptions in sub-paragraph (3) below shall apply and, in a case where the shares are not (within the meaning of section 151B) eligible for relief under section 151A(1), shall apply notwithstanding anything in any of sections 104, 105 and [F56 106A].

- (3) Those assumptions are that—
- (a) as between shares acquired by the same person on different days, those acquired on an earlier day are disposed of by that person before those acquired on a later day; and
  - (b) as between shares in a company that were acquired on the same day, those the expenditure on which has been set under this Schedule against the whole or any part of any gain are disposed of by that person only after he has disposed of any other shares in that company that were acquired by him on that day.
- (4) Where at the time of a chargeable event any relevant shares are treated for the purposes of this Act as represented by assets which consist of or include assets other than the relevant shares—
- (a) the expenditure on those shares which was set against the gain in question shall be treated, in determining for the purposes of this paragraph the amount of expenditure on each of those assets which is to be treated as having been set against that gain, as apportioned in such manner as may be just and reasonable between those assets; and
  - (b) as between different assets treated as representing the same relevant shares, the assumptions mentioned in sub-paragraph (3) above shall apply with the necessary modifications in relation to those assets as they would apply in relation to the shares.

#### **Textual Amendments**

**F56** Word in Sch. 5C para. 4(2) substituted (with effect in accordance with s. 124(7) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 124\(6\)](#)

#### *Persons to whom gain accrues*

- 5 (1) The chargeable gain which accrues in accordance with paragraph 4 above on the occurrence in relation to any relevant shares of a chargeable event shall be treated as accruing, as the case may be—
- (a) to the person who makes the disposal,
  - (b) to the person who holds the shares in question at the time of the exchange or deemed exchange,
  - (c) to the person who becomes a non-resident,
  - (d) to the person who holds the shares in question when the withdrawal of the approval takes effect, or
  - (e) to the person who holds the shares in question when the circumstances arise in respect of which the relief is withdrawn or reduced.
- (2) Where—
- (a) sub-paragraph (1) above provides for the holding of shares at a particular time to be what identifies the person to whom any chargeable gain accrues, and

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- (b) at that time, some of those shares are held by the investor and others are held by a person to whom the investor has transferred them by a disposal within marriage,

the amount of the chargeable gain accruing by virtue of paragraph 4 above shall be computed separately in relation to the investor and that person without reference to the shares held by the other.

### *Interpretation*

- 6 (1) In this Schedule “non-resident” means a person who is neither resident nor ordinarily resident in the United Kingdom.
- (2) In this Schedule references to a disposal within marriage are references to any disposal to which section 58 applies.
- (3) Notwithstanding anything in section 288(5), shares shall not for the purposes of this Schedule be treated as issued by reason only of being comprised in a letter of allotment or similar instrument.]

## <sup>F57</sup>SCHEDULE 6

Sections 163, 164.

### **Textual Amendments**

**F57** Sch. 6 repealed (with effect in relation to disposals in the year 2003-04 and subsequent years of assessment in accordance with s. 140(2) of, Sch. 27 Pt. III(31) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 140(2)(c), [Sch. 27 Pt. III\(31\)](#) (with s. 140(1))

## SCHEDULE 7

Section 165.

### RELIEF FOR GIFTS OF BUSINESS ASSETS

#### PART I

##### AGRICULTURAL PROPERTY AND SETTLED PROPERTY

#### *Agricultural property*

- 1 (1) This paragraph applies where—
- (a) there is a disposal of an asset which is, or is an interest in, agricultural property within the meaning of Chapter II of Part V of the <sup>M19</sup>Inheritance Tax Act 1984 (inheritance tax relief for agricultural property), and
- (b) apart from this paragraph, the disposal would not fall within section 165(1) by reason only that the agricultural property is not used for the purposes of a trade carried on as mentioned in section 165(2)(a).

*Status: Point in time view as at 15/02/1999.*

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- (2) Where this paragraph applies, section 165(1) shall apply in relation to the disposal if the circumstances are such that a reduction in respect of the asset—
- (a) is made under Chapter II of Part V of the Inheritance Tax Act 1984 in relation to a chargeable transfer taking place on the occasion of the disposal, or
  - (b) would be so made if there were a chargeable transfer on that occasion, or
  - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).

#### Marginal Citations

**M19** 1984 c. 51.

#### *Settled property*

- 2 (1) If—
- (a) the trustees of a settlement make a disposal otherwise than under a bargain at arm's length of an asset within sub-paragraph (2) below, and
  - (b) a claim for relief under section 165 is made by the trustees and the person who acquires the asset (“the transferee”) or, where the trustees of a settlement are also the transferee, by the trustees making the disposal alone,
- then, subject to sections 165(3), 166, 167 and 169, section 165(4) shall apply in relation to the disposal.
- (2) An asset is within this sub-paragraph if—
- (a) it is, or is an interest in, an asset used for the purposes of a trade, profession or vocation carried on by—
    - (i) the trustees making the disposal, or
    - (ii) a beneficiary who had an interest in possession in the settled property immediately before the disposal, or
  - (b) it consists of shares or securities of a trading company, or of the holding company of a trading group, where—
    - (i) the shares or securities are neither [<sup>F58</sup>listed] on a recognised stock exchange nor dealt in on the Unlisted Securities Market, or
    - (ii) not less than 25 per cent. of the voting rights exercisable by shareholders of the company in general meeting are exercisable by the trustees at the time of the disposal.
- (3) Where section 165(4) applies by virtue of this paragraph, references to the trustees shall be substituted for the references in section 165(4)(a) to the transferor; and where it applies in relation to a disposal which is deemed to occur by virtue of section 71(1) or 72(1) section 165(7) shall not apply.

#### Textual Amendments

**F58** Word in Sch. 7 para. 2(2)(b)(i) substituted (with effect in accordance with Sch. 38 para. 10(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 38 para. 10\(2\)\(f\)](#)

- 3 (1) This paragraph applies where—



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- (a) there is a disposal of an asset which is, or is an interest in, agricultural property within the meaning of Chapter II of Part V of the <sup>M20</sup>Inheritance Tax Act 1984, and
  - (b) apart from this paragraph, the disposal would not fall within paragraph 2(1)(a) above by reason only that the agricultural property is not used for the purposes of a trade as mentioned in paragraph 2(2)(a) above.
- (2) Where this paragraph applies paragraph 2(1) above shall apply in relation to the disposal if the circumstances are such that a reduction in respect of the asset—
- (a) is made under Chapter II of Part V of the Inheritance Tax Act 1984 in relation to a chargeable transfer taking place on the occasion of the disposal, or
  - (b) would be so made if there were a chargeable transfer on that occasion, or
  - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).

**Marginal Citations**

**M20** 1984 c. 51.

## PART II

### REDUCTIONS IN HELD-OVER GAIN

#### *Application and interpretation*

- 4 (1) The provisions of this Part of this Schedule apply in cases where a claim for relief is made under section 165.
- (2) In this Part of this Schedule—
- (a) “the principal provision” means section 165(2), or, as the case may require, sub-paragraph (2) of paragraph 2 above,
  - (b) “shares” includes securities,
  - (c) “the transferor” has the same meaning as in section 165 except that, in a case where paragraph 2 above applies, it refers to the trustees mentioned in that paragraph, and
  - (d) “unrelieved gain”, in relation to a disposal, has the same meaning as in section 165(7).
- (3) In this Part of this Schedule—
- (a) any reference to a disposal of an asset is a reference to a disposal which falls within subsection (1) of section 165 by virtue of subsection (2)(a) of that section or, as the case may be, falls within sub-paragraph (1) of paragraph 2 above by virtue of sub-paragraph (2)(a) of that paragraph, and
  - (b) any reference to a disposal of shares is a reference to a disposal which falls within subsection (1) of section 165 by virtue of subsection (2)(b) of that section or, as the case may be, falls within sub-paragraph (1) of paragraph 2 above by virtue of sub-paragraph (2)(b) of that paragraph.
- (4) In relation to a disposal of an asset or of shares, any reference in the following provisions of this Part of this Schedule to the held-over gain is a reference to the held-

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over gain on that disposal as determined under subsection (6) or, where it applies, subsection (7) of section 165.

*Reductions peculiar to disposals of assets*

- 5 (1) If, in the case of a disposal of an asset, the asset was not used for the purposes of the trade, profession or vocation referred to in paragraph (a) of the principal provision throughout the period of its ownership by the transferor, the amount of the held-over gain shall be reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

A is the number of days in that period of ownership during which the asset was so used, and

B is the number of days in that period.

- (2) This paragraph shall not apply where the circumstances are such that a reduction in respect of the asset—
- (a) is made under Chapter II of Part V of the <sup>M21</sup>Inheritance Tax Act 1984 in relation to a chargeable transfer taking place on the occasion of the disposal, or
  - (b) would be so made if there were a chargeable transfer on that occasion, or
  - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).

**Marginal Citations**

**M21** 1984 c. 51.

- 6 (1) If, in the case of a disposal of an asset, the asset is a building or structure and, over the period of its ownership by the transferor or any substantial part of that period, part of the building or structure was, and part was not, used for the purposes of the trade, profession or vocation referred to in paragraph (a) of the principal provision, there shall be determined the fraction of the unrelieved gain on the disposal which it is just and reasonable to apportion to the part of the asset which was so used, and the amount of the held-over gain (as reduced, if appropriate, under paragraph 5 above) shall be reduced by multiplying it by that fraction.
- (2) This paragraph shall not apply where the circumstances are such that a reduction in respect of the asset—
- (a) is made under Chapter II of Part V of the Inheritance Tax Act 1984 in relation to a chargeable transfer taking place on the occasion of the disposal, or
  - (b) would be so made if there were a chargeable transfer on that occasion, or
  - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).

*Status:* Point in time view as at 15/02/1999.

**Changes to legislation:** Taxation of Chargeable Gains Act 1992 is up to date with all changes known to be in force on or before 10 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)

*Reduction peculiar to disposal of shares*

- 7 (1) If in the case of a disposal of shares assets which are not business assets are included in the chargeable assets of the company whose shares are disposed of, or, where that company is the holding company of a trading group, in the group's chargeable assets, and either—
- (a) at any time within the period of 12 months before the disposal not less than 25 per cent. of the voting rights exercisable by shareholders of the company in general meeting are exercisable by the transferor, or
  - (b) the transferor is an individual and, at any time within that period, the company is his [<sup>F59</sup>personal company],
- the amount of the held-over gain shall be reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

A is the market value on the date of the disposal of those chargeable assets of the company or of the group which are business assets, and

B is the market value on that date of all the chargeable assets of the company, or as the case may be of the group.

- (2) For the purposes of this paragraph—
- (a) an asset is a business asset in relation to a company or a group if it is or is an interest in an asset used for the purposes of a trade, profession or vocation carried on by the company, or as the case may be by a member of the group; and
  - (b) an asset is a chargeable asset in relation to a company or a group at any time if, on a disposal at that time, a gain accruing to the company, or as the case may be to a member of the group, would be a chargeable gain.
- (3) Where the shares disposed of are shares of the holding company of a trading group, then for the purposes of this paragraph—
- (a) the holding by one member of the group of the ordinary share capital of another member shall not count as a chargeable asset, and
  - (b) if the whole of the ordinary share capital of a 51 per cent. subsidiary of the holding company is not owned directly or indirectly by that company, the value of the chargeable assets of the subsidiary shall be taken to be reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

A is the amount of the ordinary share capital of the subsidiary owned directly or indirectly by the holding company, and

B is the whole of that share capital.

*Status: Point in time view as at 15/02/1999.*

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(4) Expressions used in sub-paragraph (3) above have the same meanings as in section 838 of the Taxes Act.

**Textual Amendments**

**F59** Words in Sch. 7 para. 7(1) substituted (27.7.1993 with effect in relation to any disposal made on or after 16.3.1993 as mentioned in s. 87(2)) by 1993 c. 34, s. 87, **Sch. 7 Pt. I para. 1(1)**

*Reduction where gain partly relieved by retirement relief*

<sup>F60</sup>8 . . . . .

**Textual Amendments**

**F60** Sch. 7 para. 8 repealed (with effect in relation to disposals in the year 2003-04 and subsequent years of assessment in accordance with Sch. 27 Pt. III(31) of the amending Act) by **Finance Act 1998 (c. 36), Sch. 27 Pt. III(31)**

[<sup>F61</sup> SCHEDULE 7A

Section 177A.

RESTRICTION ON SET-OFF OF PRE-ENTRY LOSSES

**Textual Amendments**

**F61** Sch. 7A inserted (27.7.1993 with effect as mentioned in s. 88(3) of the amending Act) by 1993 c. 34, c. 88(2), Sch. 8

*Application and construction of Schedule*

- 1 (1) This Schedule shall have effect, in the case of a company which is or has been a member of a group of companies (“the relevant group”), in relation to any pre-entry losses of that company.
- (2) In this Schedule “pre-entry loss”, in relation to any company, means—
  - (a) any allowable loss that accrued to that company at a time before it became a member of the relevant group; or
  - (b) the pre-entry proportion of any allowable loss accruing to that company on the disposal of any pre-entry asset;
 and for the purposes of this Schedule the pre-entry proportion of any loss shall be calculated in accordance with paragraphs 2 to 5 below.
- (3) In this Schedule “pre-entry asset”, in relation to any disposal, means (subject to sub-paragraph (4) below) any asset which was held, at the time immediately before it became a member of the relevant group, by any company (whether or not the one which makes the disposal) which is or has at any time been a member of that group.
- (4) Subject to paragraph 3 below, an asset is not a pre-entry asset if—

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- (a) the company which held the asset at the time it became a member of the relevant group is not the company which makes the disposal; and
- (b) since that time that asset has been disposed of otherwise than by a disposal to which section 171 applies;

but (without prejudice to sub-paragraph (8) below) where, on a disposal to which section 171 does not apply, any asset would cease to be a pre-entry asset by virtue of this sub-paragraph but the company making the disposal retains any interest in or over the asset in question, that interest shall be a pre-entry asset for the purposes of this Schedule.

- (5) References in this Schedule, in relation to a pre-entry asset, to the relevant time are references to the time when the company by reference to which that asset is a pre-entry asset became a member of the relevant group; and for the purposes of this Schedule—

- (a) where a company has become a member of the relevant group on more than one occasion, an asset is a pre-entry asset by reference to that company if it would be a pre-entry asset by reference to that company in respect of any one of those occasions; but
- (b) references in the following provisions of this Schedule to the time when a company became a member of the relevant group, in relation to assets held on more than one such occasion as is mentioned in paragraph (a) above, are references to the later or latest of those occasions.

- (6) Subject to so much of sub-paragraph (6) of paragraph 9 below as requires groups of companies to be treated as separate groups for the purposes of that paragraph, if—

- (a) the principal company of a group of companies (“the first group”) has at any time become a member of another group (“the second group”) so that the two groups are treated as the same by virtue of subsection (10) of section 170, and
- (b) the second group, together in pursuance of that subsection with the first group, is the relevant group,

then, except where sub-paragraph (7) below applies, the members of the first group shall be treated for the purposes of this Schedule as having become members of the relevant group at that time, and not by virtue of that subsection at the times when they became members of the first group.

- (7) This sub-paragraph applies where—

- (a) the persons who immediately before the time when the principal company of the first group became a member of the second group owned the shares comprised in the issued share capital of the principal company of the first group are the same as the persons who, immediately after that time, owned the shares comprised in the issued share capital of the principal company of the relevant group; and
- (b) the company which is the principal company of the relevant group immediately after that time—
  - (i) was not the principal company of any group immediately before that time; and
  - (ii) immediately after that time had assets consisting entirely, or almost entirely, of shares comprised in the issued share capital of the principal company of the first group.

- (8) For the purposes of this Schedule, but subject to paragraph 3 below—

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- (a) an asset acquired or held by a company at any time and an asset held at a later time by that company, or by any company which is or has been a member of the same group of companies as that company, shall be treated as the same asset if the value of the second asset is derived in whole or in part from the first asset; and
  - (b) if—
    - (i) any asset is treated (whether by virtue of paragraph (a) above or otherwise) as the same as an asset held by a company at a later time, and
    - (ii) the first asset would have been a pre-entry asset in relation to that company,
 the second asset shall also be treated as a pre-entry asset in relation to that company;
- and paragraph (a) above shall apply, in particular, where the second asset is a freehold and the first asset is a leasehold the lessee of which acquires the reversion.
- (9) In determining for the purposes of this Schedule whether any allowable loss accruing to a company under section 116(10)(b) is a loss that accrued before the company became a member of the relevant group, any loss so accruing shall be deemed to have accrued at the time of the relevant transaction within the meaning of section 116(2).
- (10) In determining for the purposes of this Schedule whether any allowable loss accruing to a company on a disposal under section 212 is a loss that accrued before the company became a member of the relevant group, the provisions of section 213 shall be disregarded.

*Pre-entry proportion of losses on pre-entry assets*

- 2 (1) Subject to paragraphs 3 to 5 below, the pre-entry proportion of an allowable loss accruing on the disposal of a pre-entry asset shall be whatever would be the allowable loss accruing on that disposal if that loss were the sum of the amounts determined, for every item of relevant allowable expenditure, according to the following formula—
- $$A \times BC \times DE$$
- (2) In sub-paragraph (1) above, in relation to any disposal of a pre-entry asset—
- A is the total amount of the allowable loss;
  - [<sup>F62</sup>B is the amount of the item of relevant allowable expenditure for which an amount falls to be determined under this paragraph;
  - C is the total amount of all the relevant allowable expenditure;]
  - D is the length of the period beginning with the relevant pre-entry date and ending with the relevant time or, if that date is after that time, nil; and
  - E is the length of the period beginning with the relevant pre-entry date and ending with the day of the disposal.
- (3) In sub-paragraph (2) above “the relevant pre-entry date”, in relation to any item of relevant allowable expenditure, means whichever is the later of—
- (a) the date on which that item of expenditure is, or (on the [<sup>F63</sup>assumptions applying by virtue of sub-paragraphs (4) to (6B)] below) would be, treated for the purposes of section 54 as having been incurred; and
  - (b) 1st April 1982.

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- (4) Where any asset (“the second asset”) is treated by virtue of section 127 as the same as another asset (“the first asset”) previously held by any company, this paragraph and (so far as applicable) paragraph 3 below shall have effect,<sup>F64</sup> ... —
- (a) as if any item of relevant allowable expenditure consisting in consideration given for the acquisition of the second asset had been incurred at the same time as the expenditure consisting in the consideration for the acquisition of the first asset; and
  - (b) where there is more than one such time as if that item were incurred at those different times in the same proportions as the consideration for the acquisition of the first asset.
- (5) Without prejudice to sub-paragraph (4) above, this paragraph shall have effect in relation to any asset which—
- (a) was held by a company at the time when it became a member of the relevant group, and
  - (b) is treated as having been acquired by that company for such a consideration as secured that on the disposal in pursuance of which it was acquired neither a gain nor a loss accrued,
- as if that company and every person who acquired that asset or the equivalent asset at a material time had been the same person and, accordingly, as if the asset had been acquired by that company when it or the equivalent asset was acquired by the first of those persons to have acquired it at a material time and the time at which any expenditure had been incurred were to be determined accordingly.
- (6) In sub-paragraph (5) above, the reference, in relation to any asset, to a material time is a reference to any time which—
- (a) is before the occasion on which the company in question is treated as having acquired the asset for such a consideration as is mentioned in that sub-paragraph; and
  - (b) is or is after the last occasion before that occasion on which any person acquired that asset or the equivalent asset otherwise than by virtue of an acquisition which—
    - (i) is treated as an acquisition for such a consideration; or
    - (ii) is the acquisition by virtue of which any asset is treated as the equivalent asset;

and this paragraph shall have effect in relation to any asset to which that sub-paragraph applies without regard to the provisions of section 56(2).

- <sup>F65</sup>(6A) Notwithstanding anything in section 56(2), where in the case of the disposal of any pre-entry asset—
- (a) any company has at any time between the relevant time and the time of the disposal acquired that asset or the equivalent asset, and
  - (b) the acquisition was either an acquisition in pursuance of a disposal on which there is treated by virtue of section 171 as having been neither a gain nor a loss accruing or an acquisition by virtue of which an asset is treated as the equivalent asset,

the items of relevant allowable expenditure and the times when those items shall be treated as having been incurred shall be determined for the purposes of this paragraph on the assumptions specified in sub-paragraph (6B) below.

- (6B) Those assumptions are that—

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- (a) the company by reference to which the asset in question is a pre-entry asset, and
- (b) the company mentioned in sub-paragraph (6A) above and every other company which has made an acquisition which, in relation to the disposal of that asset, falls within that sub-paragraph,

were the same person and, accordingly, that the pre-entry asset had been acquired by the company disposing of it at the time when it or the equivalent asset would have been treated for the purposes of this paragraph as acquired by the company mentioned in paragraph (a) above.

(7) In sub-paragraphs (5) to (6B) above the references to the equivalent asset, in relation to another asset acquired or disposed of by any company, are references to any asset which falls in relation to that company to be treated (whether by virtue of paragraph 1(8) above or otherwise) as the same as the other asset or which would fall to be so treated after applying, as respects other assets, the assumptions for which those sub-paragraphs provide.]

(8) The preceding provisions of this paragraph and (so far as applicable) paragraph 3 below shall have effect where—

- (a) a loss accrues to any company under section 116(10)(b), and
- (b) the old asset consists in or is treated for the purposes of that paragraph as including pre-entry assets,

as if the disposal on which the loss accrues were that disposal of the old asset which is assumed to have been made for the purposes of the calculation required by section 116(10)(a).

[ Where by virtue of section 55(8) the allowable loss accruing on the disposal of a <sup>F66</sup>(8A) pre-entry asset, or any part of the loss, is attributable to an amount (“the rolled-up amount”) of rolled-up indexation (as defined in section 55(9) to (11)), then, for the purposes of this paragraph—

- (a) the total amount of all the relevant allowable expenditure shall be treated as increased by the rolled-up amount, and
- (b) the amount of each item of relevant allowable expenditure shall be treated as increased by so much (if any) of the rolled-up amount as is attributable to that item.

(8B) Where—

- (a) section 56(3) applies on the disposal of a pre-entry asset on which an allowable loss accrues, and
- (b) in accordance with that subsection, the total amount of all the relevant allowable expenditure is reduced by any amount (“the global reduction”),

the amount of each item of relevant allowable expenditure shall be treated for the purposes of this paragraph as reduced by so much (if any) of the global reduction as is attributable to that item.]

(9) In this paragraph—

<sup>F67</sup> .....

“relevant allowable expenditure”, in relation to any allowable loss, means the expenditure which falls by virtue of section 38(1)(a) or (b) to be taken into account in the computation of that loss.



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### Textual Amendments

- F62** Words in Sch. 7A para. 2(2) substituted (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 93\(8\)\(a\)](#) (with [Sch. 12](#))
- F63** Words in Sch. 7A para. 2(3)(a) substituted (with effect in accordance with s. 94(4) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 94\(2\)](#)
- F64** Words in Sch. 7A para. 2(4) repealed (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 93\(8\)\(b\)](#), [Sch. 26 Pt. V\(8\)](#) (with [Sch. 12](#))
- F65** Sch. 7A para. 2(6A)(6B)(7) substituted for Sch. 7A para. 2(7) (with effect in accordance with s. 94(4) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 94\(2\)](#)
- F66** Sch. 7A para. 2(8A)(8B) inserted (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 93\(8\)\(c\)](#) (with [Sch. 12](#))
- F67** Words in Sch. 7A para. 2(9) repealed (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 93\(8\)\(d\)](#), [Sch. 26 Pt. V\(8\)](#) (with [Sch. 12](#))

### *Disposals of pooled assets*

- 3 (1) This paragraph shall apply (subject to paragraphs 4 and 5 below) where any assets acquired by any company fall to be treated with other assets as indistinguishable parts of the same asset (“a pooled asset”) and the whole or any part of that asset is referable to pre-entry assets.
- (2) For the purposes of this Schedule, where a pooled asset has at any time contained a pre-entry asset—
- (a) the pooled asset shall be treated, until all the pre-entry assets included in that asset have (on the assumptions for which this paragraph provides) been disposed of, as incorporating a part which is referable to pre-entry assets; and
  - (b) the size of that part shall be determined in accordance with the following provisions of this paragraph.
- (3) Where there is a disposal of any part of a pooled asset and the proportion of the asset which is disposed of does not exceed the proportion of that asset which is represented by any part of it which is not, at the time of the disposal, referable to pre-entry assets, that disposal shall be deemed for the purposes of this Schedule to be confined to assets which are not pre-entry assets so that—
- (a) except where paragraph 4(2) below applies, no part of any loss accruing on that disposal shall be deemed to be a pre-entry loss, and
  - (b) the part of the pooled asset which after the disposal is to be treated as referable to pre-entry assets shall be correspondingly increased.
- (4) Where there is a disposal of any part of a pooled asset and the proportion of the asset which is disposed of does exceed the proportion of that asset mentioned in subparagraph (3) above, that disposal shall be deemed for the purposes of this Schedule to relate to pre-entry assets only so far as required for the purposes of the excess, so that—
- (a) any loss accruing on that disposal shall be deemed for the purposes of this Schedule to be an allowable loss on the disposal of a pre-entry asset;
  - (b) the pre-entry proportion of that loss shall be deemed (except where paragraph 4(3) below applies) to be the amount (so far as it does not exceed the amount of the loss actually accruing) which would have been the pre-entry proportion under paragraph 2 above of any loss accruing on the disposal of the excess if the excess were a separate asset; and

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- (c) the pooled asset shall be treated after the disposal as referable entirely to pre-entry assets.
- (5) Where there is a disposal of the whole of a pooled asset or of any part of a pooled asset which, at the time of the disposal, is referable entirely to pre-entry assets, paragraphs (a) and (b) of sub-paragraph (4) above shall apply to the disposal of the asset or the part as they apply in relation to the assumed disposal of the excess mentioned in that sub-paragraph but, in the case of the disposal of the whole of a pooled asset only a part of which is referable to pre-entry assets, as if the reference in paragraph (b) of that sub-paragraph to the excess were a reference to that part.
- (6) For the purpose of determining, under sub-paragraph (4) or (5) above, what would have been the pre-entry proportion of any loss accruing on the disposal of any assets as a separate asset it shall be assumed that none of the assets treated as comprised in that asset has ever been comprised in a pooled asset with any assets other than those which are taken to constitute that separate asset for the purposes of the determination.
- (7) The assets which are comprised in any asset which is treated for any of the purposes of this paragraph as a separate asset shall be identified on the following assumptions, that is to say—
- (a) that assets are disposed of in the order of the dates which for the purposes of paragraph 2 above are the relevant pre-entry dates in relation to the consideration for their acquisition;
  - (b) subject to that, that assets with earlier relevant times are disposed of before those with later relevant times;
  - (c) that disposals made when a company was not a member of the relevant group are made in accordance with the preceding provisions of this paragraph, as they have effect in relation to the group of companies of which the company was a member at the time of the disposal or, as the case may be, of which it had most recently been a member before that time; and
  - (d) subject to paragraphs (a) to (c) above, that a company disposes of assets in the order in which it acquired them.
- (8) Where in the case of any asset there is more than one date which is the relevant pre-entry date in relation to the consideration for its acquisition, the date taken into account for the purposes of sub-paragraph (7)(a) above shall be the date which is the earlier or earliest of those dates if any date which is the relevant pre-entry date in relation to the acquisition of an option to acquire that asset is disregarded.
- (9) In applying the formula set out in paragraph 2(1) above in relation to the disposal of an asset which is treated for any of the purposes of this paragraph as comprised in a separate asset—
- (a) the amount or value of any consideration for the acquisition or disposal of that asset; and
  - (b) the incidental costs of the acquisition or disposal of that asset,
- shall be determined (to the exclusion of any apportionment under section 129 or 130) by apportioning any consideration or costs relating to both that asset and other assets acquired or disposed of at the same time according to the proportion that is borne by that asset to all the assets to which the consideration or costs related.
- (10) Where—

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- (a) any asset (“the latest asset”) falls (whether by virtue of paragraph 1(8) above or otherwise) to be treated as acquired at the same time as another asset (“the original asset”) which was acquired before the latest asset, and
- (b) the latest asset is either comprised in a pooled asset a part of which is referable to pre-entry assets or is or includes an asset which is to be treated as so comprised,

sub-paragraph (7) above shall apply not only in relation to the latest asset as if it were the original asset but also, in the first place, for identifying the asset which is to be treated as the original asset for the purposes of this paragraph.

- (11) Sub-paragraphs (3)(b) and (4)(c) above shall have effect in relation to any disposal without prejudice to the effect of any subsequent acquisition of assets falling to be treated as part of a pooled asset on the determination of whether, and to what extent, any part of that pooled asset is to be treated as referable to pre-entry assets.

*Rule to prevent pre-entry losses on pooled assets being treated as post-entry losses*

- 4 (1) This paragraph shall apply if—
- (a) there is a disposal of any part of a pooled asset which for the purposes of paragraph 3 above is treated as incorporating a part which is referable to pre-entry assets;
  - (b) the assets disposed of are or include assets (“the post-entry element of the disposal”) which for the purposes of that paragraph are treated as having been incorporated in the part of the pooled asset which is not referable to pre-entry assets;
  - (c) an allowable loss (“the actual loss”) accrues on the disposal; and
  - (d) the amount which in computing the allowable loss is allowed as a deduction of relevant allowable expenditure (“the expenditure actually allowed”) exceeds the relevant allowable expenditure attributable to the post-entry element of the disposal.
- (2) Subject to sub-paragraph (6) below, where the post-entry element of the disposal comprises all of the assets disposed of—
- (a) the actual loss shall be treated for the purposes of this Schedule as a loss accruing on the disposal of a pre-entry asset; and
  - (b) the pre-entry proportion of that loss shall be treated as being the amount (so far as it does not exceed the amount of the actual loss) by which the expenditure actually allowed exceeds the relevant allowable expenditure attributable to the post-entry element of the disposal.
- (3) Subject to sub-paragraph (6) below, where—
- (a) the actual loss is treated by virtue of paragraph 3 above as a loss accruing on the disposal of a pre-entry asset, and
  - (b) the expenditure actually allowed exceeds the actual cost of the assets to which the disposal is treated as relating,
- the pre-entry proportion of the loss shall be treated as being the amount which (so far as it does not exceed the amount of the actual loss) is equal to the sum of that excess and what would, apart from this paragraph and paragraph 5 below, be the pre-entry proportion of the loss accruing on the disposal.
- (4) For the purposes of sub-paragraph (3) above the actual cost of the assets to which the disposal is treated as relating shall be taken to be the sum of—

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- (a) the relevant allowable expenditure attributable to the post-entry element of the disposal; and
  - (b) the amount which, in computing the pre-entry proportion of the loss in accordance with paragraph 3(4)(b) and (6) above, would be treated for the purposes of C in the formula in paragraph 2(1) above as the total amount allowable as a deduction of relevant allowable expenditure in respect of such of the assets disposed of as are treated as having been incorporated in the part of the pooled asset which is referable to pre-entry assets.
- (5) Without prejudice to sub-paragraph (6) below, where sub-paragraph (2) or (3) above applies for the purpose of determining the pre-entry proportion of any loss, no election shall be capable of being made under paragraph 5 below for the purpose of enabling a different amount to be taken as the pre-entry proportion of that loss.
- (6) Where—
  - (a) the pre-entry proportion of the loss accruing to any company on the disposal of any part of a pooled asset falls to be determined under sub-paragraph (2) or (3) above,
  - (b) the amount determined under that sub-paragraph exceeds the amount determined under sub-paragraph (7) below (“the alternative pre-entry loss”), and
  - (c) the company makes an election for the purposes of this sub-paragraph,the pre-entry proportion of the loss determined under sub-paragraph (2) or (3) above shall be reduced to the amount of the alternative pre-entry loss.
- (7) For the purposes of sub-paragraph (6) above the alternative pre-entry loss is whatever apart from this paragraph would have been the pre-entry proportion of the loss on the disposal in question, if for the purposes of this Schedule the identification of the assets disposed of were to be made disregarding the part of the pooled asset which was not referable to pre-entry assets, except to the extent (if any) by which the part referable to pre-entry assets fell short of what was disposed of.
- (8) An election for the purposes of sub-paragraph (6) above with respect to any loss shall be made by the company to which the loss accrued by notice to the inspector given within—
  - (a) the period of two years beginning with the end of the accounting period of that company in which the disposal is made on which the loss accrues; or
  - (b) such longer period as the Board may by notice allow;and paragraph 5 below may be taken into account under sub-paragraph (7) above in determining the amount of the alternative pre-entry loss as if an election had been made under that paragraph but shall be so taken into account only if the election for the purposes of sub-paragraph (6) above contains an election corresponding to the election that, apart from this paragraph, might have been made under that paragraph.
- (9) For the purposes of this paragraph the relevant allowable expenditure attributable to the post-entry element of the disposal shall be the amount which, in computing any allowable loss accruing on a disposal of that element as a separate asset, would have been allowed as a deduction of relevant allowable expenditure if none of the assets comprised in that element had ever been comprised in a pooled asset with any assets other than those which are taken to constitute that separate asset for the purposes of this sub-paragraph.

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- (10) For the purpose of identifying the assets which are to be treated for the purposes of sub-paragraph (9) above as comprised in the post-entry element of the disposal, a company shall be taken to dispose of assets in the order in which it acquired them.
- (11) Paragraph 3(9) above shall apply for the purposes of sub-paragraph (9) above as it applies for the purposes of the application as mentioned in paragraph 3(9) above of the formula so mentioned; and paragraph 3(10) above shall apply for the purposes of this paragraph in relation to sub-paragraph (10) above as it applies for the purposes of paragraph 3 above in relation to sub-paragraph (7) of that paragraph.
- (12) In this paragraph references to an amount allowed as a deduction of relevant allowable expenditure are references to the amount falling to be so allowed in accordance with section 38(1)(a) and (b) and (so far as applicable) section 42, <sup>F68</sup>....
- <sup>F69</sup>(13) .....
- (14) Nothing in this paragraph shall affect the operation of the rules contained in paragraph 3 above for determining, for any purposes other than those of sub-paragraph (7) above, how much of any pooled asset at any time consists of a part which is referable to pre-entry assets.

#### Textual Amendments

- F68** Words in Sch. 7A para. 4(12) repealed (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 93(9)(a), **Sch. 26 Pt. V(8)** (with [Sch. 12](#))
- F69** Sch. 7A para. 4(13) repealed (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 93(9)(b), **Sch. 26 Pt. V(8)** (with [Sch. 12](#))

#### *Alternative calculation by reference to market value*

- 5 (1) Subject to paragraph 4(5) above and the following provisions of this paragraph, if—
- (a) an allowable loss accrues on the disposal by any company of any pre-entry asset; and
  - (b) that company makes an election for the purposes of this paragraph in relation to that loss,
- the pre-entry proportion of that loss (instead of being the amount determined under the preceding provisions of this Schedule) shall be whichever is the smaller of the amounts mentioned in sub-paragraph (2) below.
- (2) Those amounts are—
- (a) the amount of any loss which would have accrued if that asset had been disposed of at the relevant time at its market value at that time; and
  - (b) the amount of the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above.
- [ In determining for the purposes of sub-paragraph (2)(a) above the amount of any loss <sup>F70</sup>(2A) which would have accrued if the asset had been disposed of at the relevant time at its market value at that time—
- (a) it shall be assumed that the amendments of this Act made by section 93(1) to (5) of the Finance Act 1994 (indexation losses) had effect in relation to that disposal and, accordingly,

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- (b) references in those amendments and in subsection (11) of that section to 30th November 1993 shall be read as references to the day on which the relevant time falls.]
- (3) Where no loss would have accrued on the disposal assumed for the purposes of sub-paragraph (2)(a) above, the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above shall be deemed not to have a pre-entry proportion.
- (4) Sub-paragraph (5) below shall apply where—
- (a) an election is made for the purposes of this paragraph in relation to any loss accruing on the disposal (“the real disposal”) of the whole or any part of a pooled asset; and
  - (b) the case is one in which (but for the election) paragraph 3 above would apply for determining the pre-entry proportion of a loss accruing on the real disposal.
- (5) In a case falling within sub-paragraph (4) above, this paragraph shall have effect as if the amount specified in sub-paragraph (2)(a) above were to be calculated—
- (a) on the basis that the disposal which is assumed to have taken place was a disposal of all the assets falling within sub-paragraph (6) below; and
  - (b) by apportioning any loss that would have accrued on that disposal between—
    - (i) such of the assets falling within paragraph (6) below as are assets to which the real disposal is treated as relating, and
    - (ii) the remainder of the assets so falling,
 according to the proportions of any pooled asset whose disposal is assumed which would have been, respectively, represented by assets mentioned in sub-paragraph (i) above and by assets mentioned in sub-paragraph (ii) above, and where assets falling within sub-paragraph (6) below have different relevant times there shall be assumed to have been a different disposal at each of those times.
- (6) Assets fall within this sub-paragraph if—
- (a) immediately before the time which is the relevant time in relation to those assets, they were comprised in a pooled asset which consisted of or included assets which fall to be treated for the purposes of paragraph 3 above as—
    - (i) comprised in the part of the pooled asset referable to pre-entry assets; and
    - (ii) disposed of on the real disposal;
  - (b) they were also comprised in such a pooled asset immediately after that time; and
  - (c) the pooled asset in which they were so comprised immediately after that time was held by a member of the relevant group.
- (7) Where—
- (a) an election is made under paragraph 4(6) above requiring the determination by reference to this paragraph of the alternative pre-entry loss accruing on the disposal of any assets comprised in a pooled asset, and
  - (b) in pursuance of that election any amount of the loss that would have accrued on an assumed disposal is apportioned in accordance with sub-paragraph (5) above to assets (“the relevant assets”) which—
    - (i) are treated for the purposes of that determination as assets to which the disposal related, but

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- (ii) otherwise continue after the disposal to be treated as incorporated in the part of that pooled asset which is referable to pre-entry assets, then, on any further application of this paragraph for the purpose of determining the pre-entry proportion of the loss accruing on a subsequent disposal of assets comprised in that pooled asset, that amount (without being apportioned elsewhere) shall be deducted from so much of the loss accruing on the same assumed disposal as, apart from the deduction, would be apportioned to the relevant assets on that further application of this paragraph.
- (8) An election under this paragraph with respect to any loss shall be made by the company in question by notice to the inspector given within—
- (a) the period of two years beginning with the end of the accounting period of that company in which the disposal is made on which the loss accrues; or
  - (b) such longer period as the Board may by notice allow.

#### Textual Amendments

**F70** Sch. 7A para. 5(2A) inserted (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 93\(10\)](#) (with [Sch. 12](#))

#### *Restrictions on the deduction of pre-entry losses*

- 6 (1) In the calculation of the amount to be included in respect of chargeable gains in any company's total profits for any accounting period—
- (a) if in that period there is any chargeable gain from which the whole or any part of any pre-entry loss accruing in that period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;
  - (b) if, after all such deductions as may be made under paragraph (a) above have been made, there is in that period any chargeable gain from which the whole or any part of any pre-entry loss carried forward from a previous accounting period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;
  - (c) the total chargeable gains (if any) remaining after the making of all such deductions as may be made under paragraph (a) or (b) above shall be subject to deductions in accordance with section 8(1) in respect of any allowable losses that are not pre-entry losses; and
  - (d) any pre-entry loss which has not been the subject of a deduction under paragraph (a) or (b) above (as well as any other losses falling to be carried forward under section 8(1)) shall be carried forward to the following accounting period of that company.
- (2) Subject to sub-paragraph (1) above, any question as to which or what part of any pre-entry loss has been deducted from any particular chargeable gain shall be decided—
- (a) where it falls to be decided in respect of the setting of losses against gains in any accounting period ending before 16th March 1993 as if—
    - (i) pre-entry losses accruing in any such period had been set against chargeable gains before any other allowable losses accruing in that period were set against those gains;

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- (ii) pre-entry losses carried forward to any such period had been set against chargeable gains before any other allowable losses carried forward to that period were set against those gains; and
  - (iii) subject to sub-paragraphs (i) and (ii) above, the pre-entry losses carried forward to any accounting period ending on or after 16th March 1993 were identified with such losses as may be determined in accordance with such elections as may be made by the company to which they accrued;
- and
- (b) in any other case, in accordance with such elections as may be made by the company to which the loss accrued;
- and any question as to which or what part of any pre-entry loss has been carried forward from one accounting period to another shall be decided accordingly.
- (3) An election by any company under this paragraph shall be made by notice to the inspector given—
- (a) in the case of an election under sub-paragraph (2)(a)(iii) above, before the end of the period of two years beginning with the end of the accounting period of that company which was current on 16th March 1993; and
  - (b) in the case of an election under sub-paragraph (2)(b) above, before the end of the period of two years beginning with the end of the accounting period of that company in which the gain in question accrued.
- (4) For the purposes of this Schedule where any matter falls to be determined under this paragraph by reference to an election but no election is made, it shall be assumed, so far as consistent with any elections that have been made—
- (a) that losses are set against gains in the order in which the losses accrued; and
  - (b) that the gains against which they are set are also determined according to the order in which they accrued with losses being set against earlier gains before they are set against later ones.

*Gains from which pre-entry losses are to be deductible*

- 7 (1) A pre-entry loss that accrued to a company before it became a member of the relevant group shall be deductible from a chargeable gain accruing to that company if the gain is one accruing—
- (a) on a disposal made by that company before the date on which it became a member of the relevant group (“the entry date”);
  - (b) on the disposal of an asset which was held by that company immediately before the entry date; or
  - (c) on the disposal of any asset which—
    - (i) was acquired by that company on or after the entry date from a person who was not a member of the relevant group at the time of the acquisition; and
    - (ii) since its acquisition from that person has not been used or held for any purposes other than those of a trade which was being carried on by that company at the time immediately before the entry date and which continued to be carried on by that company until the disposal.



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- (2) The pre-entry proportion of an allowable loss accruing to any company on the disposal of a pre-entry asset shall be deductible from a chargeable gain accruing to that company if—
  - (a) the gain is one accruing on a disposal made, before the date on which it became a member of the relevant group, by that company and that company is the one (“the initial company”) by reference to which the asset on the disposal of which the loss accrues is a pre-entry asset;
  - (b) the pre-entry asset and the asset on the disposal of which the gain accrues were each held by the same company at a time immediately before it became a member of the relevant group; or
  - (c) the gain is one accruing on the disposal of an asset which—
    - (i) was acquired by the initial company (whether before or after it became a member of the relevant group) from a person who, at the time of the acquisition, was not a member of that group; and
    - (ii) since its acquisition from that person has not been used or held for any purposes other than those of a trade which was being carried on, immediately before it became a member of the relevant group, by the initial company and which continued to be carried on by the initial company until the disposal.
- (3) Where two or more companies become members of the relevant group at the same time and those companies were all members of the same group of companies immediately before they became members of the relevant group, then, without prejudice to paragraph 9 below—
  - (a) an asset shall be treated for the purposes of sub-paragraph (1)(b) above as held, immediately before it became a member of the relevant group, by the company to which the pre-entry loss in question accrued if that company is one of those companies and the asset was in fact so held by another of those companies;
  - (b) two or more assets shall be treated for the purposes of sub-paragraph (2)(b) above as assets held by the same company immediately before it became a member of the relevant group wherever they would be so treated if all those companies were treated as a single company; and
  - (c) the acquisition of an asset shall be treated for the purposes of sub-paragraphs (1)(c) and (2)(c) above as an acquisition by the company to which the pre-entry loss in question accrued if that company is one of those companies and the asset was in fact acquired (whether before or after they became members of the relevant group) by another of those companies.
- (4) Paragraph 1(4) above shall apply for determining for the purposes of this paragraph whether an asset on the disposal of which a chargeable gain accrues was held at the time when a company became a member of the relevant group as it applies for determining whether that asset is a pre-entry asset in relation to that group by reference to that company.
- (5) Subject to sub-paragraph (6) below, where a gain accrues on the disposal of the whole or any part of—
  - (a) any asset treated as a single asset but comprising assets only some of which were held at the time mentioned in paragraph (b) of sub-paragraph (1) or (2) above, or

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- (b) an asset which is treated as held at that time by virtue of a provision requiring an asset which was not held at that time to be treated as the same as an asset which was so held,

a pre-entry loss shall be deductible by virtue of paragraph (b) of sub-paragraph (1) or (2) above from the amount of that gain to the extent only of such proportion of that gain as is attributable to assets held at that time or, as the case may be, represents the gain that would have accrued on the asset so held.

(6) Where—

- (a) a chargeable gain accrues by virtue of subsection (10) of section 116 on the disposal of a qualifying corporate bond,
- (b) that bond was not held as required by paragraph (b) of sub-paragraph (1) or (2) above at the time mentioned in that paragraph, and
- (c) the whole or any part of the asset which is the old asset for the purposes of that section was so held,

the question whether that gain is one accruing on the disposal of an asset the whole or any part of which was held by a particular company at that time shall be determined for the purposes of this paragraph as if the bond were deemed to have been so held to the same extent as the old asset.

*Change of a company's nature*

8 (1) If—

- (a) within any period of three years, a company becomes a member of a group of companies and there is (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade carried on by that company, or
- (b) at any time after the scale of the activities in a trade carried on by a company has become small or negligible, and before any considerable revival of the trade, that company becomes a member of a group of companies,

the trade carried on before that change, or which has become small or negligible, shall be disregarded for the purposes of paragraph 7(1)(c) and (2)(c) above in relation to any time before the company became a member of the group in question.

(2) In sub-paragraph (1) above the reference to a major change in the nature or conduct of a trade includes a reference to—

- (a) a major change in the type of property dealt in, or services or facilities provided, in the trade; or
- (b) a major change in customers, markets or outlets of the trade;

and this paragraph shall apply even if the change is the result of a gradual process which began outside the period of three years mentioned in sub-paragraph (1)(a) above.

(3) Where the operation of this paragraph depends on circumstances or events at a time after the company becomes a member of any group of companies (but not more than three years after), an assessment to give effect to this paragraph shall not be out of time if made within six years from that time or the latest such time.

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

- C6** Sch. 7A para. 8(1) applied by 1988 c. 1, Sch. 28A para. 13 (as inserted (with effect in accordance with Sch. 26 para. 5 of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 26 para. 3](#))

*Identification of “the relevant group” and application of Schedule to every connected group*

- 9 (1) This paragraph shall apply where there is more than one group of companies which would be the relevant group in relation to any company.
- (2) Where any loss has accrued on the disposal by any company of any asset, this Schedule shall not apply by reference to any group of companies in relation to any loss accruing on that disposal unless—
- (a) that group is a group in relation to which that loss is a pre-entry loss by virtue of paragraph 1(2)(a) above or, if there is more than one such group, the one of which that company most recently became a member;
  - (b) that group, in a case where there is no group falling within paragraph (a) above, is either—
    - (i) the group of which that company is a member at the time of the disposal, or
    - (ii) if it is not a member of a group of companies at that time, the group of which that company was last a member before that time;
  - (c) that group, in a case where there is a group falling within paragraph (a) [F71 or (b)] above, is a group of which that company was a member at any time in the accounting period of that company in which it became a member of the group falling within that paragraph;
  - (d) that group is a group the principal company of which is or has been, or has been under the control of—
    - (i) the company by which the disposal is made, or
    - (ii) another company which is or has been a member of a group by reference to which this Schedule applies in relation to the loss in question by virtue of paragraph (a), (b) or (c) above;
- or
- (e) that group is a group of which either—
    - (i) the principal company of a group by reference to which this Schedule so applies, or
    - (ii) a company which has had that principal company under its control, is or has been a member;
- and sub-paragraphs (3) to (5) below shall apply in the case of any loss accruing on the disposal of any asset where, by virtue of this sub-paragraph, there are two or more groups (“connected groups”) by reference to which this Schedule applies.
- (3) This Schedule shall apply separately in relation to each of the connected groups (so far as they are not groups in relation to which the loss is a pre-entry loss by virtue of paragraph 1(2)(a) above) for the purpose of—
- (a) determining whether the loss on the disposal of any asset is a loss on the disposal of a pre-entry asset; and
  - (b) calculating the pre-entry proportion of that loss.
- (4) Subject to sub-paragraph (5) below, paragraph 6 above shall have effect—

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- (a) as if the pre-entry proportion of any loss accruing on the disposal of an asset which is a pre-entry asset in the case of more than one of the connected groups were the largest pre-entry proportion of that loss calculated in accordance with sub-paragraph (3) above; and
  - (b) so that, where the loss accruing on the disposal of any asset is a pre-entry loss by virtue of paragraph 1(2)(a) above in the case of any of the connected groups, that loss shall be the pre-entry loss for the purposes of paragraph 6 above, and not any amount which is the pre-entry proportion of that loss in relation to any of the other groups.
- (5) Where, on the separate application of this Schedule in the case of each of the groups by reference to which this Schedule applies, there is, in the case of the disposal of any asset, a pre-entry loss by reference to each of two or more of the connected groups, no amount in respect of the loss accruing on the disposal shall be deductible under paragraph 7 above from any chargeable gain if any of the connected groups is a group in the case of which, on separate applications of that paragraph in relation to each group, the amount deductible from that gain in respect of that loss is nil.
- (6) Notwithstanding that the principal company of one group (“the first group”) has become a member of another (“the second group”), those two groups shall not by virtue of section 170(10) be treated <sup>F72</sup>in relation to any company that is or has become a member of the second group (“the relevant company”) as the same group for the purposes of this paragraph if—
- (a) the time at which the relevant company became a member of the first group is a time in the same accounting period as that in which the principal company of the first group became a member of the second group; or
  - (b) the principal company of the first group was under the control, immediately before it became a member of the second group, of a company which at that time was already a member of the second group.
- (7) Where, in the case of the disposal of any asset—
- (a) two or more groups which but for sub-paragraph (6) above would be treated as the same group are treated as separate groups by virtue of that sub-paragraph; and
  - (b) one of those groups is a group of which either—
    - (i) the principal company of a group by reference to which this Schedule applies by virtue of sub-paragraph (2)(a), (b) or (c) above in relation to any loss accruing on the disposal, or
    - (ii) a company which has had that principal company under its control, is or has been a member,
 this paragraph shall have effect as if that principal company had been a member of each of the groups mentioned in paragraph (a) above.

#### Textual Amendments

**F71** Words in Sch. 7A para. 9(2)(c) inserted (with application in accordance with s. 94(4) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 94\(3\)](#)

**F72** Words in Sch. 7A para. 9(6) substituted (with effect in accordance with s. 138(2) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 138\(1\)](#)

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### *Appropriations to stock in trade*

- 10 Where, but for an election under subsection (3) of section 161, there would be deemed to have been a disposal at any time by any company of any asset—
- (a) the amount by which the market value of the asset may be treated as increased in pursuance of that election shall not include the amount of any pre-entry loss that would have accrued on that disposal; and
  - (b) this Schedule shall have effect as if the pre-entry loss of the last mentioned amount had accrued to that company at that time.

### *Continuity provisions*

- 11 (1) This paragraph applies where provision has been made by or under any enactment (“the transfer legislation”) for the transfer of property, rights and liabilities to any person from—
- (a) a body established by or under any enactment for the purpose, in the exercise of statutory functions, of carrying on any undertaking or industrial or other activity in the public sector or of exercising any other statutory functions;
  - (b) a subsidiary of such a body; or
  - (c) a company wholly owned by the Crown.
- (2) A loss shall not be a pre-entry loss for the purposes of this Schedule in relation to any company to whom a transfer has been made by or under the transfer legislation if that loss—
- (a) accrued to the person from whom the transfer has been made; and
  - (b) falls to be treated, in accordance with any enactment made in relation to transfers by or under that legislation, as a loss accruing to that company.
- (3) For the purposes of this Schedule where a company became a member of the relevant group by virtue of the transfer by or under the transfer legislation of any shares in or other securities of that company or any other company—
- (a) a loss that accrued to that company before it so became a member of that group shall not be a pre-entry loss in relation to that group; and
  - (b) no asset held by that company when it so became a member of that group shall by virtue of that fact be a pre-entry asset.
- (4) For the purposes of this paragraph a company shall be regarded as wholly owned by the Crown if it is—
- (a) a company limited by shares in which there are no issued shares held otherwise than by, or by a nominee of, the Treasury, a Minister of the Crown, a Northern Ireland department or another company wholly owned by the Crown; or
  - (b) a company limited by guarantee of which no person other than the Treasury, a Minister of the Crown or a Northern Ireland department, or a nominee of the Treasury, a Minister of the Crown or a Northern Ireland department, is a member.
- (5) In this paragraph—
- “enactment” includes any provision of any Northern Ireland legislation, within the meaning of section 24 of the <sup>M22</sup>Interpretation Act 1978; and
  - “statutory functions” means functions under any enactment, under any subordinate legislation, within the meaning of the Interpretation Act 1978,

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or under any statutory rules, within the meaning of the <sup>M23</sup>Statutory Rules (Northern Ireland) Order 1979.

**Marginal Citations**

**M22** 1978 c. 30.

**M23** S.I. 1979/1573 (N.I. 13).

*Companies changing groups on certain transfers of shares etc.*

12 For the purposes of this Schedule, and without prejudice to paragraph 11 above, where—

- (a) a company which is a member of a group of companies becomes at any time a member of another group of companies as the result of a disposal of shares in or other securities of that company or any other company; and
- (b) that disposal is one on which, by virtue of any enactment specified in section 35(3)(d), neither a gain nor a loss would accrue,

this Schedule shall have effect in relation to the losses that accrued to that company before that time and the assets held by that company at that time as if any time when it was a member of the first group were included in the period during which it is treated as having been a member of the second group.]

[<sup>F73</sup>SCHEDULE 7AA

RESTRICTIONS ON SETTING LOSSES AGAINST PRE-ENTRY GAINS

**Textual Amendments**

**F73** Sch. 7AA inserted (with effect in accordance with s. 137(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 137(2), [Sch. 24](#)

*Introductory*

- 1 (1) This Schedule applies in the case of any company (“the relevant company”) in relation to any accounting period (“the gain period”) in which a pre-entry gain has accrued to that company.
- (2) Subject to sub-paragraph (3) below, references in this Schedule to a pre-entry gain are references to any chargeable gain accruing to a company in an accounting period in which that company joins a group of companies after the gain has accrued to it.
- (3) References in this Schedule to a company joining a group of companies—
- (a) are references to its becoming a member of any group of companies of which it was not a member immediately before becoming a member; but
  - (b) do not include references to a company becoming a member of a group of companies at any time before 17th March 1998.

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- (4) Nothing in section 170(10) shall prevent all the companies of one group from being treated for the purposes of this Schedule as joining another group of companies when the principal company of the first group becomes a member of the other group.

*Restriction on setting off losses*

- 2 (1) Notwithstanding anything in section 8 or Schedule 7A, the amount to be included in respect of chargeable gains in the relevant company's total profits for the gain period shall be computed by adding together—
- (a) the adjusted amounts of the pre-entry gains accruing to the relevant company in the gain period; and
  - (b) the amount which, in accordance with that section and (where applicable) that Schedule, would fall to be included in respect of chargeable gains in those profits if the amounts specified in sub-paragraph (2) below were disregarded.
- (2) The amounts to be disregarded as mentioned in sub-paragraph (1)(b) above are—
- (a) all the pre-entry gains accruing to the relevant company in the gain period; and
  - (b) so much of any amount falling within subsection (1)(a) or (b) of section 8 as is applied in accordance with paragraph 3 below in reducing the amount of any such pre-entry gain;

and, accordingly, amounts which are applied in accordance with paragraph 3 below in reducing the amount of any pre-entry gain accruing in the gain period shall not be available to be carried forward for the purposes of section 8(1)(b) or paragraph 6 of Schedule 7A to any subsequent accounting period.

*Adjustment of pre-entry gains*

- 3 (1) For the purposes of paragraph 2 above the adjusted amount of any pre-entry gain accruing to the relevant company in the gain period is the amount of that gain after any amount that may be set against it under this paragraph has been applied in reducing it.
- (2) Subject to sub-paragraphs (3) and (4) below, the whole or any part of any amount which under paragraph 4 below is a qualifying loss in relation to a pre-entry gain may be set against that gain, except so far as it has been set against another pre-entry gain.
- (3) Nothing in this Schedule shall authorise the reduction of a pre-entry gain by the deduction of the whole or any part of any amount to which paragraph 7 of Schedule 7A applies (pre-entry losses) unless that gain is a gain from which that amount is deductible in accordance with that paragraph.
- (4) Nothing in this Schedule shall authorise the reduction of a pre-entry gain by the deduction of any amount which section 18(3) prevents from being deductible from that gain.

*Meaning of "qualifying losses"*

- 4 (1) Any amount which, in the case of the relevant company, would fall within section 8(1)(b) for the gain period is a qualifying loss in relation to any pre-entry gain accruing to the relevant company in that period.

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- (2) Any allowable loss accruing to the relevant company in the gain period is a qualifying loss in relation to a pre-entry gain accruing to that company in that period if—
  - (a) the time when the loss accrued is the same as or before the time when the gain accrued; or
  - (b) the loss having accrued after the time when the gain accrued, there is no time falling within sub-paragraph (3) below between—
    - (i) the time when the gain accrued; and
    - (ii) the time immediately after the time when the loss accrued.
- (3) A time falls within this sub-paragraph, in relation to any allowable loss, if—
  - (a) it is a time at which the relevant company joined a group of companies; and
  - (b) the relevant asset was not in relevant ownership immediately before that time.
- (4) For the purposes of sub-paragraph (3) above the relevant asset was in relevant ownership at the time immediately before the relevant company joined a group of companies if, and only if, it was at that time held by the relevant company or by another company which—
  - (a) joined that group of companies (“the new group”) at the same time as the relevant company; and
  - (b) had been a member of the same group of companies as the relevant company immediately before joining the new group.
- (5) In this paragraph “relevant asset”, in relation to an allowable loss, means the asset on the disposal of which that loss accrued.

*Special rule for disposal of pooled assets*

- 5 (1) This paragraph applies where—
  - (a) any holding of securities falls by virtue of any provision of Chapter I of Part IV to be treated as a single asset;
  - (b) one or more disposals of securities comprised in that holding is made by the relevant company in the gain period at or after the relevant entry time for that company; and
  - (c) an allowable loss accrues to the relevant company on that disposal or, as the case may be, on one or more of them.
- (2) The extent to which any allowable loss falling within sub-paragraph (1)(c) above is to be treated for the purposes of paragraph 4(4) above as a loss accruing on the disposal of an asset held at any entry time for the relevant company shall be determined—
  - (a) by computing the notional net pre-entry loss accruing to the relevant company in the gain period;
  - (b) by setting allowable losses falling within sub-paragraph (1)(c) above against that notional net pre-entry loss in the order in which those losses accrued; and
  - (c) by treating the allowable loss as accruing on the disposal of an asset held at the entry time to the extent only that there is or remains an amount against which it can be set under paragraph (b) above.
- (3) For the purposes of this paragraph the notional net pre-entry loss accruing to the relevant company in the gain period shall be determined—



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- (a) by computing all the chargeable gains and allowable losses that, on the relevant assumptions, would have accrued to the relevant company on the disposals falling within sub-paragraph (4) below;
  - (b) in a case where the aggregate amount of those gains is equal to or exceeds the aggregate amount of those losses, taking nil as the amount of the notional net pre-entry loss; and
  - (c) in any other case, taking the amount by which the aggregate of those losses exceeds the aggregate of those gains as the amount of the notional net pre-entry loss.
- (4) A disposal falls within this sub-paragraph to the extent that—
- (a) it is made by the relevant company in the gain period at or after the relevant entry time for that company; and
  - (b) on the relevant assumptions, it would be taken to be a disposal of securities that are pre-entry securities in relation to the relevant entry time for that company.
- (5) For the purposes of this paragraph the relevant assumptions, in relation to any company, are—
- (a) that securities which are pre-entry securities in relation to the relevant entry time for that company are not to be regarded as part of a single asset with any securities which are post-entry securities in relation to that time;
  - (b) that securities disposed of in the gain period at or after that time are identified with securities that are pre-entry securities in relation to that time, rather than with securities which are post-entry securities in relation to that time; and
  - (c) subject to paragraphs (a) and (b) above, that securities disposed of in the gain period are identified in accordance with the provisions applicable apart from paragraphs (a) and (b) above.
- (6) For the purpose of applying the relevant assumptions in relation to any disposal of securities by the relevant company, it shall be further assumed—
- (a) that the relevant assumptions applied to every previous disposal in the gain period of securities by one company to another company in the same group of companies;
  - (b) that (subject to paragraph (c) below) securities disposed of by one member of a group of companies to another member of that group retain the same status (as pre-entry securities or as post-entry securities) in relation to a particular time as they had before the disposal; and
  - (c) that securities acquired by the relevant company at or after the relevant entry time for that company are to be taken to be pre-entry securities in relation to that time only if they fall within sub-paragraph (7) below.
- (7) Securities fall within this sub-paragraph if, on the relevant assumptions and the assumptions set out in sub-paragraph (6)(a) and (b) above, they fall to be identified with securities which—
- (a) were held by the relevant company or any associated company of the relevant company at the time which is the relevant entry time for the relevant company; and
  - (b) have not, between that time and the time when they are disposed of by the relevant company, been disposed of otherwise than by a disposal made by one company in a group of companies to another company in the same group.

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- (8) Where anything is treated by virtue of section 127 as the same asset as any securities comprised in any holding of securities falling to be regarded as a single asset by virtue of any provision of Chapter I of Part IV, so much of that section as determines the time at which anything comprised in the asset is taken to have been acquired shall be disregarded in determining for the purposes of this paragraph whether securities comprised in the asset are pre-entry securities or post-entry securities.
- (9) Subject to sub-paragraphs (6) to (8) above, in this paragraph—
- “associated company” means a company which—
- (a) at the time which is the relevant entry time in the case of the relevant company joined the group of companies that was also joined at that time by the relevant company; and
- (b) had been a member of the same group of companies as the relevant company immediately before that time;
- “entry time”, in relation to a company, means any time in the gain period at which the company joins a group of companies;
- “pre-entry securities”, in relation to an entry time, means such securities acquired by the company in question before that time as have not already been disposed of before that time;
- “post-entry securities”, in relation to an entry time, means securities acquired by the company in question at or after that time;
- “the relevant entry time” in relation to any company means—
- (a) if there is only one entry time for that company, that time; and
- (b) if there is more than one such time, the earlier or earliest such time.
- “securities” has the meaning given for the purposes of section 104 by subsection (3) of that section.

*Special rule for losses on disposal of certain assets acquired at different times*

- 6 (1) This paragraph applies in relation to any allowable loss accruing to the relevant company in the gain period on the disposal of the whole or any part of an asset if—
- (a) the asset is one falling within sub-paragraph (2) below;
- (b) the disposal is one made at or at any time after an entry time; and
- (c) the loss is not one in relation to which paragraph 5(2) above applies.
- (2) An asset falls within this sub-paragraph if it is—
- (a) an asset treated as a single asset but comprising assets only some of which were held immediately before the entry time by the relevant company or by an associated company; or
- (b) an asset which is treated as held immediately before the entry time by the relevant company or by an associated company by virtue of a provision requiring an asset which was not held immediately before that time to be treated as the same as an asset which was so held.
- (3) Only such proportions of the loss as fall within sub-paragraph (4) below shall be taken for the purposes of paragraph 4(4) above to have accrued on the disposal of an asset held at the entry time.
- (4) Those proportions are—
- (a) the proportion of the loss which, on a just and reasonable apportionment, is properly attributable to assets in fact held at the entry time; and

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- (b) such proportion of the loss not falling within paragraph (a) above as represents the loss that would have accrued if the asset disposed of had been the asset in fact held at that time.

(5) In this paragraph—

“associated company”, in relation to any entry time, means a company which—

- (a) at that time joined the group of companies that was also joined at that time by the relevant company; and
- (b) had been a member of the same group of companies as the relevant company immediately before that time;

“entry time” means any time in the gain period at which the relevant company joins a group of companies.

*Special rule for gains and losses on deemed annual disposal*

7 Where—

- (a) a chargeable gain or allowable loss is treated as accruing at the end of a company’s accounting period by virtue of section 213(1)(c) or 214A(2)(b), and
- (b) that accounting period is one in which that company has joined a group of companies,

this Schedule shall have effect as if the gain or loss had accrued before the time or, as the case may be, the earliest time at which the company joined a group of companies in that period.]

[<sup>F74</sup> SCHEDULE 7B

Section 214B.

MODIFICATION OF ACT IN RELATION TO OVERSEAS LIFE INSURANCE COMPANIES

**Textual Amendments**

**F74** Sch. 7B inserted (27.7.1993) by 1993 c. 34, s. 102(2), **Sch.11**

- 1 In its application to an overseas life insurance company (as defined in section 431(2) of the Taxes Act) this Act shall have effect with the following modifications; and in those modifications any reference to the Taxes Act is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act.
- 2 (1) In section 13(5)(d), the words “section 11(2)(b), (c), (d) or (e) of the Taxes Act” shall be treated as substituted for the words “section 10(3)”.
- 2 (2) This paragraph shall apply in relation to chargeable gains accruing to companies in accounting periods beginning after 31st December 1992.
- 3 (1) In section 16(3), the words “under section 11(2)(b), (c), (d) or (e) of the Taxes Act” shall be treated as substituted for the words “under section 10”.
- 3 (2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

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- 4 (1) In section 25, the following subsection shall be treated as substituted for subsection (7)—
- “(7) For the purposes of this section an asset is at any time a chargeable asset in relation to an overseas life insurance company if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(b), (c), (d) or (e) of the Taxes Act.”
- (2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.
- 5 (1) In section 140A(2), the words “ section 11(2)(b), (c) or (d) of the Taxes Act ” shall be treated as substituted for the words “section 10(3)”.
- (2) This paragraph shall apply in relation to transfers taking place in accounting periods of company B beginning after 31st December 1992.
- 6 (1) In section 159(4)(b), the words “ section 11(2)(b), (c) or (d) of the Taxes Act ” shall be treated as substituted for the words “section 10(3)”.
- (2) This paragraph shall apply in relation to disposals or acquisitions made in accounting periods beginning after 31st December 1992.
- 7 (1) In section 172(4), the words “ section 11(2)(b), (c), (d) or (e) of the Taxes Act ” shall be treated as substituted for the words “section 10(3)”.
- (2) This paragraph shall apply in relation to disposals made or assumed to have been made in accounting periods beginning after 31st December 1992.
- 8 (1) In subsections (2)(a) and (3) of section 185, the words “ or (4A) ” shall be treated as inserted after the words “subsection (4)”.
- (2) The following subsections shall be treated as inserted after subsection (4) of that section —
- “(4A) Subject to subsection (4B) below, if at any time after the relevant time the company is an overseas life insurance company —
- (a) any assets of its long term business fund which, immediately after the relevant time —
- (i) are situated outside the United Kingdom and are used or held for the purposes of the branch or agency in the United Kingdom through which the company carries on life assurance business; or
- (ii) are attributed to the branch or agency by virtue of section 11B of the Taxes Act,
- shall be excepted from subsection (2) above; and
- (b) any new assets of its long term business fund which, after that time —
- (i) are so situated and are so used or held; or
- (ii) are so attributed,
- shall be excepted from subsection (3) above.
- (4B) Subsection (4A) above shall not apply if the relevant time falls before the relevant day; and for the purposes of this subsection the relevant day is

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the first day of the company's first accounting period to begin after 31st December 1992.”

- (3) In subsection (5) of that section, the following paragraph shall be treated as inserted after paragraph (b) —

“(ba) “life assurance business” and “long term business fund” have the meanings given by section 431(2) of the Taxes Act;”

- 9 (1) In section 191(1)(b), the words “ section 11(2)(b), (c), (d) or (e) of the Taxes Act ”shall be treated as substituted for the words “section 10(3)”.
- (2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

[<sup>F75</sup>9A In section 211(1), the reference to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 shall be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act).]

#### Textual Amendments

**F75** Sch. 7B para. 9A inserted (with effect in accordance with s. 53(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 9 para. 6\(2\)](#)

- 10 (1) In section 212, the following subsection shall be treated as inserted after subsection (5)—

“(5A) In its application to an overseas life insurance company this section shall have effect as if the references in subsections (1) and (2) to assets were to such of the assets concerned as are —

- (a) section 11(2)(b) assets;
- (b) section 11(2)(c) assets; or
- (c) assets which by virtue of section 11B of the Taxes Act are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

and any expression used in this subsection to which a meaning is given by section 11A of the Taxes Act has that meaning.”

- (2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

- 11 (1) In section 213(4), the words “ in the United Kingdom through a branch or agency ”shall be treated as inserted after the words “long term business”.

[<sup>F76</sup>(1A) In section 213(5), the reference to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 shall be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act).]

- (2) This paragraph shall apply in relation to events occurring in accounting periods beginning after 31st December 1992.

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### Textual Amendments

**F76** Sch. 7B para. 11(1A) inserted (with effect in accordance with s. 53(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 9 para. 6\(3\)](#)

12 (1) In section 214, the following subsection shall be treated as inserted after subsection (11)—

“(12) In its application to an overseas life insurance company this section shall have effect as if—

(a) the references in subsections (1), (2) and (6) to assets were to such of the assets concerned as are—

(i) section 11(2)(b) assets; or

(ii) section 11(2)(c) assets;

(b) the references in subsections (1), (7) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business;

[<sup>F77</sup>(c) the reference in subsection (11) to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 were to be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act), and the references in that subsection to the business to which the transfer relates were to be construed accordingly;]

and any expression used in this subsection to which a meaning is given by section 11A of the Taxes Act has that meaning.”

(2) This paragraph shall apply where the accounting period mentioned in section 214(6) (d) begins after 31st December 1992.

### Textual Amendments

**F77** Words in Sch. 7B para. 12(1) inserted (with effect in accordance with s. 53(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 9 para. 6\(4\)](#)

13 (1) In subsection (4) of section 214A, in item G the words “ in the United Kingdom through a branch or agency ” shall be treated as inserted after the words “cessation of the carrying on”.

(2) In subsection (6) of that section, the words “ in the United Kingdom through a branch or agency ” shall be treated as inserted after the words “long term business”.

[<sup>F78</sup>(2A) In subsection (7) of that section, the reference to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 shall be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act); and the references in that subsection and in subsection (8) of that section to the business to which the transfer relates shall be construed accordingly.]

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- (3) In subsection (11) of that section, the following words shall be treated as inserted at the end “ ; and, as it applies for the purposes of this section, the words “(with the modifications set out in subsection (12) of that section)” shall be treated as inserted after the words “section 214.” .

#### Textual Amendments

**F78** Sch. 7B para. 13(2A) inserted (with effect in accordance with s. 53(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 9 para. 6\(5\)](#)

- 14 (1) In section 228(6)(b), the words “ section 11(2)(b), (c) or (d) of the Taxes Act ” shall be treated as substituted for the words “section 10(3)”.
- (2) This paragraph shall apply in relation to acquisitions made in chargeable periods beginning after 31st December 1992.]

## SCHEDULE 8

Section 240.

### LEASES

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

**C7** 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](#)

#### *Leases of land as wasting assets: curved line restriction of allowable expenditure*

- 1 (1) A lease of land shall not be a wasting asset until the time when its duration does not exceed 50 years.
- (2) If at the beginning of the period of ownership of a lease of land it is subject to a sublease not at a rackrent and the value of the lease at the end of the duration of the sublease, estimated as at the beginning of the period of ownership, exceeds the expenditure allowable under section 38(1)(a) in computing the gain accruing on a disposal of the lease, the lease shall not be a wasting asset until the end of the duration of the sublease.
- (3) In the case of a wasting asset which is a lease of land the rate at which expenditure is assumed to be written off shall, instead of being a uniform rate as provided by section 46, be a rate fixed in accordance with the Table below.
- (4) Accordingly, for the purposes of the computation of the gain accruing on a disposal of a lease, and given that —
- the percentage derived from the Table for the duration of the lease at the beginning of the period of ownership is P(1),
  - the percentage so derived for the duration of the lease at the time when any item of expenditure attributable to the lease under section 38(1)(b) is first reflected in the nature of the lease is P(2), and
  - the percentage so derived for the duration of the lease at the time of the disposal is P(3), then—

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- (i) there shall be excluded from the expenditure attributable to the lease under section 38(1)(a) a fraction equal to —

$$\frac{P(1) - P(3)}{P(1)},$$

and

- (ii) there shall be excluded from any item of expenditure attributable to the lease under section 38(1)(b) a fraction equal to—

$$\frac{P(2) - P(3)}{P(2)}.$$

- (5) This paragraph applies notwithstanding that the period of ownership of the lease is a period exceeding 50 years and, accordingly, no expenditure shall be written off under this paragraph in respect of any period earlier than the time when the lease becomes a wasting asset.
- (6) Section 47 shall apply in relation to this paragraph as it applies in relation to section 46.

If the duration of the lease is not an exact number of years the percentage to be derived from the Table above shall be the percentage for the whole number of years plus one-twelfth of the difference between that and the percentage for the next higher number of years for each odd month counting an odd 14 days or more as one month.

TABLE

<i>Years</i>	<i>Percentage</i>
50 (or more)	100
49	99.657
48	99.289
47	98.902
46	98.490
45	98.059
44	97.595
43	97.107
42	96.593
41	96.041
40	95.457



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39	94.842
38	94.189
37	93.497
36	92.761
35	91.981
34	91.156
33	90.280
32	89.354
31	88.371
30	87.330
29	86.226
28	85.053
27	83.816
26	82.496
25	81.100
24	79.622
23	78.055
22	76.399
21	74.635
20	72.770
19	70.791
18	68.697
17	66.470
16	64.116
15	61.617
14	58.971
13	56.167
12	53.191
11	50.038
10	46.695
9	43.154
8	39.399
7	35.414
6	31.195
5	26.722

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4	21.983
3	16.959
2	11.629
1	5.983
0	0

*Premiums for leases*

- 2 (1) Subject to this Schedule where the payment of a premium is required under a lease of land, or otherwise under the terms subject to which a lease of land is granted, there is a part disposal of the freehold or other asset out of which the lease is granted.
- (2) In applying section 42 to such a part disposal, the property which remains undisposed of includes a right to any rent or other payments, other than a premium, payable under the lease, and that right shall be valued as at the time of the part disposal.
- 3 (1) This paragraph applies in relation to a lease of land.
- (2) Where under the terms subject to which a lease is granted, a sum becomes payable by the tenant in lieu of the whole or part of the rent for any period, or as consideration for the surrender of the lease, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum<sup>[F79]</sup>, being a premium which—
- is due when the sum is payable by the tenant; and
  - where the sum is payable in lieu of rent, is in respect of the period in relation to which the sum is payable.]
- (3) Where, as consideration for the variation or waiver of any of the terms of a lease, a sum becomes payable by the tenant otherwise than by way of rent, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum<sup>[F80]</sup>, being a premium which—
- is due when the sum is payable by the tenant; and
  - is in respect of the period from the time when the variation or waiver takes effect to the time when it ceases to have effect.]
- <sup>[F81]</sup>(4) Where under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, that shall not be the occasion of any recomputation of the gain accruing on the receipt of any other premium, and the premium shall be regarded—
- in the case of a premium deemed to have been received for the surrender of a lease, as consideration for a separate transaction which is effected when the premium is deemed to be due and consists of the disposal by the landlord of his interest in the lease; and
  - in any other case, as consideration for a separate transaction which is effected when the premium is deemed to be due and consists of a further part disposal of the freehold or other asset out of which the lease is granted.
- (5) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, and

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the landlord is a tenant under a lease the duration of which does not exceed 50 years, this Schedule shall apply—

- (a) as if an amount equal to the amount of that premium deemed to have been received had been given by way of consideration for the grant of the part of the sublease covered by the period in respect of which the premium is deemed to have been paid; and
- (b) as if that consideration were expenditure incurred by the sublessee and attributable to that part of the sublease under section 38(1)(b).]

- (7) Sub-paragraph (3) above shall apply in relation to a transaction not at arm's length, and in particular in relation to a transaction entered into gratuitously, as if such sum had become payable by the tenant otherwise than by way of rent as might have been required of him if the transaction had been at arm's length.

#### Textual Amendments

- F79** Words in Sch. 8 para. 3(2) substituted (with effect in accordance with s. 142(5) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 142\(2\)](#)
- F80** Words in Sch. 8 para. 3(3) substituted (with effect in accordance with s. 142(5) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 142\(3\)](#)
- F81** Sch. 8 para. 3(4)(5) substituted for Sch. 8 para. 3(4)-(6) (with effect in accordance with s. 142(5) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 142\(4\)](#)

#### *Subleases out of short leases*

- 4 (1) In the computation of the gain accruing on the part disposal of a lease which is a wasting asset by way of the grant of a sublease for a premium the expenditure attributable to the lease under paragraphs (a) and (b) of section 38(1) shall be apportioned in accordance with this paragraph, and section 42 shall not apply.
- (2) Out of each item of the expenditure attributable to the lease under paragraphs (a) and (b) of section 38(1) there shall be apportioned to what is disposed of —
- (a) if the amount of the premium is not less than what would be obtainable by way of premium for the said sublease if the rent payable under that sublease were the same as the rent payable under the lease, the fraction which, under paragraph 1(3) of this Schedule, is to be written off over the period which is the duration of the sublease, and
  - (b) if the amount of the premium is less than the said amount so obtainable, the said fraction multiplied by a fraction equal to the amount of the said premium divided by the said amount so obtainable.
- (3) If the sublease is a sublease of part only of the land comprised in the lease this paragraph shall apply only in relation to a proportion of the expenditure attributable to the lease under paragraphs (a) and (b) of section 38(1) which is the same as the proportion which the value of the land comprised in the sublease bears to the value of that and the other land comprised in the lease; and the remainder of that expenditure shall be apportioned to what remains undisposed of.

#### *Exclusion of premiums taxed under Schedule A etc.*

- 5 (1) Where by reference to any premium [F82] 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

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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, [<sup>F82</sup>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 [<sup>F83</sup>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.
- (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

- F82** 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](#))
- F83** 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

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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 [<sup>F84</sup>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

**F84** 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 [<sup>F85</sup>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

**F85** 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](#))

- [<sup>F86</sup>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

**F86** 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](#))

### *Duration of leases*

- 8 (1) In ascertaining for the purposes of this Act the duration of a lease of land the following provisions shall have effect.
- (2) Where the terms of the lease include provision for the determination of the lease by notice given by the landlord, the lease shall not be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice given by the landlord.
  - (3) Where any of the terms of the lease (whether relating to forfeiture or to any other matter) or any other circumstances render it unlikely that the lease will continue

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beyond a date falling before the expiration of the term of the lease, the lease shall not be treated as having been granted for a term longer than one ending on that date.

- (4) Sub-paragraph (3) applies in particular where the lease provides for the rent to go up after a given date, or for the tenant's obligations to become in any other respect more onerous after a given date, but includes provision for the determination of the lease on that date, by notice given by the tenant, and those provisions render it unlikely that the lease will continue beyond that date.
- (5) Where the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant this paragraph shall apply as if the term of the lease extended for as long as it could be extended by the tenant, but subject to any right of the landlord by notice to determine the lease.
- (6) It is hereby declared that the question what is the duration of a lease is to be decided, in relation to the grant or any disposal of the lease, by reference to the facts which were known or ascertainable at the time when the lease was acquired or created.

#### *Leases of property other than land*

- 9 (1) Paragraphs 2, 3, 4 and 8 of this Schedule shall apply in relation to leases of property other than land as they apply to leases of land, but subject to any necessary modifications.
- (2) Where by reference to any capital sum within the meaning of section 785 of the Taxes Act (leases of assets other than land) any person has been charged to income tax on any amount, that amount out of the capital sum shall be deducted from any gain accruing on the disposal for which that capital sum 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 increase any loss.
- (3) In the case of a lease of a wasting asset which is movable property the lease shall be assumed to terminate not later than the end of the life of the wasting asset.

#### *Interpretation*

- 10 (1) In this Act, unless the context otherwise requires "lease" —
  - (a) in relation to land, includes an underlease, sublease or any tenancy or licence, and any agreement for a lease, underlease, sublease or tenancy or licence and, in the case of land outside the United Kingdom, any interest corresponding to a lease as so defined,
  - (b) in relation to any description of property other than land, means any kind of agreement or arrangement under which payments are made for the use of, or otherwise in respect of, property,
 and "lessor", "lessee" and "rent" shall be construed accordingly.
- (2) In this Schedule "premium" includes any like sum, whether payable to the intermediate or a superior landlord, and for the purposes of this Schedule any sum (other than rent) paid on or in connection with the granting of a tenancy shall be presumed to have been paid by way of premium except in so far as [<sup>F87</sup>other sufficient consideration for the payment can be shown to have been given].

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- (3) In the application of this Schedule to Scotland “premium” includes in particular a grassum payable to any landlord or intermediate landlord on the creation of a sublease.

#### Textual Amendments

**F87** Words in Sch. 8 para. 10(2) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 67](#)

## SCHEDULE 9

Section 288.

### GILT-EDGED SECURITIES

#### PART I

##### GENERAL

- 1 For the purposes of this Act “gilt-edged securities” means the securities specified in Part II of this Schedule, and such stocks and bonds issued under section 12 of the National Loans Act 1968, denominated in sterling and issued after 15th April 1969, as may be specified by order made by the Treasury.
- [<sup>F88</sup>1A (1) Any security which is a strip of a security which is a gilt-edged security for the purposes of this Act is also itself a gilt-edged security for those purposes.
- (2) In this paragraph “strip” has the same meaning as in section 47 of the Finance Act 1942.]

#### Textual Amendments

**F88** Sch. 9 para. 1A inserted (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [Sch. 40 para. 8](#)

- 2 The Treasury shall cause particulars of any order made under paragraph 1 above to be published in the London and Edinburgh Gazettes as soon as may be after the order is made.
- 3 Section 14(b) of the Interpretation Act 1978 (implied power to amend orders made by statutory instrument) shall not apply to the power of making orders under paragraph 1 above.

#### PART II

##### EXISTING GILT-EDGED SECURITIES

##### STOCKS AND BONDS CHARGED ON THE NATIONAL LOANS FUND

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12 <sup>3</sup> / <sub>4</sub> %	Treasury Loan 1992
8%	Treasury Loan 1992

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10%	Treasury Stock 1992
3%	Treasury Stock 1992
12 <sup>1</sup> / <sub>4</sub> %	Exchequer Stock 1992
13 <sup>1</sup> / <sub>2</sub> %	Exchequer Stock 1992
10 <sup>1</sup> / <sub>2</sub> %	Treasury Convertible Stock 1992
2%	Index-linked Treasury Stock 1992
12 <sup>1</sup> / <sub>2</sub> %	Treasury Loan 1993
6%	Funding Loan 1993
13 <sup>3</sup> / <sub>4</sub> %	Treasury Loan 1993
10%	Treasury Loan 1993
8 <sup>1</sup> / <sub>4</sub> %	Treasury Stock 1993
14 <sup>1</sup> / <sub>2</sub> %	Treasury Loan 1994
12 <sup>1</sup> / <sub>2</sub> %	Exchequer Stock 1994
9%	Treasury Loan 1994
10%	Treasury Loan 1994
13 <sup>1</sup> / <sub>2</sub> %	Exchequer Stock 1994
8 <sup>1</sup> / <sub>2</sub> %	Treasury Stock 1994
8 <sup>1</sup> / <sub>2</sub> %	Treasury Stock 1994 "A"
2%	Index-linked Treasury Stock 1994
3%	Exchequer Gas Stock 1990-95
12%	Treasury Stock 1995
10 <sup>1</sup> / <sub>4</sub> %	Exchequer Stock 1995
12 <sup>3</sup> / <sub>4</sub> %	Treasury Loan 1995
9%	Treasury Loan 1992-96
15 <sup>1</sup> / <sub>4</sub> %	Treasury Loan 1996
13 <sup>1</sup> / <sub>4</sub> %	Exchequer Loan 1996
14%	Treasury Stock 1996
2%	Index-linked Treasury Stock 1996
10%	Conversion Stock 1996
13 <sup>1</sup> / <sub>4</sub> %	Treasury Loan 1997
10 <sup>1</sup> / <sub>2</sub> %	Exchequer Stock 1997
8 <sup>3</sup> / <sub>4</sub> %	Treasury Loan 1997
8 <sup>3</sup> / <sub>4</sub> %	Treasury Loan 1997 "B"
8 <sup>3</sup> / <sub>4</sub> %	Treasury Loan 1997 "C"
15%	Exchequer Stock 1997



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6 <sup>3</sup> / <sub>4</sub> %	Treasury Loan 1995-98
15 <sup>1</sup> / <sub>2</sub> %	Treasury Loan 1998
12%	Exchequer Stock 1998
12%	Exchequer Stock 1998 "A"
9 <sup>3</sup> / <sub>4</sub> %	Exchequer Stock 1998
9 <sup>3</sup> / <sub>4</sub> %	Exchequer Stock 1998 "A"
9 <sup>1</sup> / <sub>2</sub> %	Treasury Loan 1999
10 <sup>1</sup> / <sub>2</sub> %	Treasury Stock 1999
12 <sup>1</sup> / <sub>2</sub> %	Exchequer Stock 1999
12 <sup>1</sup> / <sub>2</sub> %	Exchequer Stock 1999 "A"
12 <sup>1</sup> / <sub>2</sub> %	Exchequer Stock 1999 "B"
2 <sup>1</sup> / <sub>2</sub> %	Index-linked Treasury Convertible Stock 1999
10 <sup>1</sup> / <sub>2</sub> %	Conversion Stock 1999
9%	Conversion Stock 2000
9%	Conversion Stock 2000 "A"
13%	Treasury Stock 2000
8 <sup>1</sup> / <sub>2</sub> %	Treasury Loan 2000
14%	Treasury Stock 1998-2001
2 <sup>1</sup> / <sub>2</sub> %	Index-linked Treasury Stock 2001
9 <sup>3</sup> / <sub>4</sub> %	Conversion Stock 2001
10%	Treasury Stock 2001
9 <sup>1</sup> / <sub>2</sub> %	Conversion Loan 2001
12%	Exchequer Stock 1999-2002
12%	Exchequer Stock 1999-2002 "A"
9 <sup>1</sup> / <sub>2</sub> %	Conversion Stock 2002
10%	Conversion Stock 2002
9%	Exchequer Stock 2002
9 <sup>3</sup> / <sub>4</sub> %	Treasury Stock 2002
13 <sup>3</sup> / <sub>4</sub> %	Treasury Stock 2000-2003
13 <sup>3</sup> / <sub>4</sub> %	Treasury Stock 2000-2003 "A"
2 <sup>1</sup> / <sub>2</sub> %	Indexed-linked Treasury Stock 2003
9 <sup>3</sup> / <sub>4</sub> %	Conversion Loan 2003
10%	Treasury Stock 2003
3 <sup>1</sup> / <sub>2</sub> %	Funding Stock 1999-2004

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11½%	Treasury Stock 2001-2004
9½%	Conversion Stock 2004
10%	Treasury Stock 2004
12½%	Treasury Stock 2003-2005
12½%	Treasury Stock 2003-2005 "A"
10½%	Exchequer Stock 2005
9½%	Conversion Stock 2005
9½%	Conversion Stock 2005 "A"
8%	Treasury Loan 2002-2006
8%	Treasury Loan 2002-2006 "A"
2%	Indexed-linked Treasury Stock 2006
9¾%	Conversion Stock 2006
11¾%	Treasury Stock 2003-2007
11¾%	Treasury Stock 2003-2007 "A"
8½%	Treasury Loan 2007
13½%	Treasury Stock 2004-2008
9%	Treasury Loan 2008
9%	Treasury Loan 2008 "A"
2½%	Indexed-linked Treasury Stock 2009
8%	Treasury Stock 2009
2½%	Indexed-linked Treasury Stock 2011
9%	Conversion Loan 2011
5½%	Treasury Stock 2008-2012
2½%	Indexed-linked Treasury Stock 2013
7¾%	Treasury Loan 2012-2015
2½%	Treasury Stock 1986-2016
2½%	Indexed-linked Treasury Stock 2016
2½%	Indexed-linked Treasury Stock 2016 "A"
12%	Exchequer Stock 2013-2017
2½%	Indexed-linked Treasury Stock 2020
2½%	Indexed-linked Treasury Stock 2024
2½%	Annuities 1905 or after
2¾%	Annuities 1905 or after
2½%	Consolidated Stock 1923 or after
4%	Consolidated Loan 1957 or after

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3½%	Conversion Loan 1961 or after
2½%	Treasury Stock 1975 or after
3%	Treasury Stock 1966 or after
3½%	War Loan 1952 or after
10%	Conversion Stock 1996 "A"
10%	Conversion Stock 1996 "B"
12%	Exchequer Stock 1998 "B"
9%	Conversion Stock 2000 "B"
13%	Treasury Stock 2000 "A"
10%	Treasury Stock 2001 "A"
10%	Treasury Stock 2001 "B"
9¾%	Treasury Stock 2002 "A"
9¾%	Treasury Stock 2002 "B"
10%	Treasury Stock 2003 "A"
9½%	Conversion Stock 2004 "A"
9%	Treasury Loan 2008 "B"
9%	Treasury Loan 2008 "C"
9%	Conversion Loan 2011 "A"
<i>Securities issued by certain public corporations and guaranteed by the Treasury</i>	
3%	North of Scotland Electricity Stock 1989-92

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## SCHEDULE 10

Section 290.

### CONSEQUENTIAL AMENDMENTS

#### *Post Office Act 1969 c. 48*

- 1 In section 74 of the Post Office Act 1969 for “Capital Gains Tax Act 1979” there shall be substituted “ Taxation of Chargeable Gains Act 1992 ”.

#### *Taxes Management Act 1970 c. 9*

- 2 (1) The Taxes Management Act 1970 shall have effect subject to the following amendments.
- (2) In sections 11(1)(b), 27(1), 47(1), 57(1)(a), 78(3)(b), 111 and 119(4) for (2) In sections 11(1)(b), 27(1), 47(1), 57(1)(a), <sup>F89</sup>..., 111 and 119(4) for “Capital Gains Tax Act 1979” there shall be substituted “ 1992 Act ”.
- (3) In section 12(2)—
- (a) for “Capital Gains Tax Act 1979” there shall be substituted “ 1992 Act ”;

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- (b) for “19(4)” there shall be substituted “ 51(1) ”;
  - (c) for “71” there shall be substituted “ 121 ”;
  - (d) for “130, 131 or 133” there shall be substituted “ 263, 268 or 269 ”;
  - (e) for “128(6)” there shall be substituted “ 262(6) ”.
- (4) In section 25(9) for “sections 64, 93 and 155(1) of the Capital Gains Tax Act 1979” there shall be substituted “ sections 99 and 288(1) of the 1992 Act. ”
- (5) The following section shall be substituted for section 28 —
- “**28** (1) A person holding shares or securities in a company which is not resident or ordinarily resident in the United Kingdom may be required by a notice by the Board to give such particulars as the Board may consider are required to determine whether the company falls within section 13 of the 1992 Act and whether any chargeable gains have accrued to that company in respect of which the person to whom the notice is given is liable to capital gains tax under that section.
- (2) For the purposes of this section “company” and “shares” shall be construed in accordance with sections 99 and 288(1) of the 1992 Act.”
- (6) In section 30(2)(a) and (3)(a) for “47 of the Finance (No.2) Act 1975” there shall be substituted “ 283 of the 1992 Act ”.
- (7) In section 31(3)(c) for “38 of the Finance Act 1973” there shall be substituted “ 276 of the 1992 Act ”.
- (8) In section 86(4) for “7 of the Capital Gains Tax Act 1979” there shall be substituted “ 7 of the 1992 Act ”.
- (9) In section 87A(3) for the words from “section 267(3C)” to “1979” there shall be substituted “ 137(4), 139(7) or 179(11) of the 1992 Act or section 96(8) of the Finance Act 1990 ”. This sub-paragraph shall come into force on the day appointed under section 95 of the Finance (No.2) Act 1987 for the purposes of section 85 of that Act.
- (10) In section 98 —
- (a) in column 1 of the Table —
    - (i) for “149D of the Capital Gains Tax Act 1979” there shall be substituted “ 151 of the 1992 Act ”;
    - (ii) for “6(9) of Schedule 1 to the Capital Gains Tax Act 1979” there shall be substituted “ 2(9) of Schedule 1 to the 1992 Act ”;
    - (iii) for “84 of the Finance Act 1981” there shall be substituted “ 98 of the 1992 Act ”;
    - (iv) for “Paragraph 7(1) of Schedule 10 to the Finance Act 1988” there shall be substituted “ Section 79(6) of the 1992 Act ; ”
    - (v) for “39 of the Finance Act 1990” there shall be substituted “ 235 of the 1992 Act ”;
    - (vi) for “12 of Schedule 16 to the Finance Act 1991” there shall be substituted “ 10 of Schedule 5 to the 1992 Act ”; and
  - (b) in column 2 of the Table —
    - (i) for “149D of the Capital Gains Tax Act 1979” there shall be substituted “ 151 of the 1992 Act ”; and
    - (ii) for “13 to 16 of Schedule 16 to the Finance Act 1991” there shall be substituted “ 11 to 14 of Schedule 5 to the 1992 Act ”.

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- (11) In section 118(1)—
- (a) in the definition of “chargeable gain” for “Capital Gains Tax Act 1979” there shall be substituted “ 1992 Act ”; and
  - (b) in paragraph (b) of the definition of “the Taxes Acts” for “the Capital Gains Tax Act 1979” there shall be substituted “ the Taxation of Chargeable Gains Act 1992 ”and
  - (c) immediately after that definition there shall be inserted— “ the 1992 Act ”means the Taxation of Chargeable Gains Act 1992.

**Textual Amendments**

**F89** Word in Sch. 10 para. 2(2) repealed (with effect in accordance with Sch. 29 Pt. 8(16) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. VIII\(16\)](#)

*Finance Act 1973 c. 51*

- 3 (1) In section 38(2) of the Finance Act 1973 for “In this section and in Schedule 15 to this Act” there shall be substituted “ Schedule 15 to this Act shall have effect and in that Schedule ”.
- (2) In paragraphs 2 and 4 of Schedule 15 to that Act for “38 of this Act” there shall be substituted “ 276 of the Taxation of Chargeable Gains Act 1992 ”.

*British Aerospace Act 1980 c. 26*

- 4 In section 12(2) of the British Aerospace Act 1980 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “ 170(12) of the Taxation of Chargeable Gains Act 1992 ”.

*British Telecommunications Act 1981 c. 38*

- 5 In section 82(1) for “Capital Gains Tax Act 1979” and “Schedule 5” there shall be substituted respectively “ Taxation of Chargeable Gains Act 1992 ” and “ Schedule 2 ”.

*Value Added Tax Act 1983 c. 55*

<sup>F90</sup>6 .....

**Textual Amendments**

**F90** Sch. 10 para. 6 repealed (1.9.1994) by [Value Added Tax Act 1994 \(c. 23\)](#), s. 101(1), [Sch. 15](#)

*Telecommunications Act 1984 c. 12*

- 7 In section 72(2) of the Telecommunications Act 1984 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “ 170(12) of the Taxation of Chargeable Gains Act 1992 ”.

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*Inheritance Tax Act 1984 c. 51*

- 8 (1) The Inheritance Tax Act shall have effect subject to the following amendments.
- (2) In section 31(4G)(b) for “147 of the Capital Gains Tax Act 1979” there shall be substituted “ 258 of the 1992 Act ”.
- (3) In section 79(2) for “147 of the Capital Gains Tax Act” and “147” (where it secondly appears) there shall be substituted respectively “ 258 of the 1992 Act ”and “ 258 ”.
- (4) In section 97 —
- (a) the amendments made by section 138(6) of the Finance Act 1989 shall continue to have effect notwithstanding the repeal by this Act of that provision; and
- (b) for “273(1) of the Taxes Act 1970”, “272 of the Taxes Act 1970” and “273 to 281” there shall be substituted respectively “ 171(1) of the 1992 Act ”, “ 170 of the 1992 Act ”and “ 171 to 181 ”.
- (5) In sections 107(4), 113A(6) and 124A(6) for “77 to 86 of the Capital Gains Tax Act 1979” there shall be substituted “ 126 to 136 of the 1992 Act ”.
- (6) In section 135 for “section 78 of the Capital Gains Tax Act 1979”, “84”, “77(1)”, “82”, “85”, “86”, “78”, “93” and “77(1) of the Capital Gains Tax Act 1979” there shall be substituted respectively “ 127 of the 1992 Act ”, “ 134 ”, “ 126(1) ”, “ 132 ”, “ 135 ”, “ 136 ”, “ 127 ”, “ 99 ”and “ 126(1) ”.
- (7) In section 138 for “3 to the Capital Gains Tax Act 1979” there shall be substituted “ 8 to the 1992 Act ”.
- (8) In section 165 for “Capital Gains Tax Act 1979” and “59” shall be substituted “ 1992 Act ”and “ 282 ”.
- (9) In section 183 for “section 78 of the Capital Gains Tax Act 1979”, “77(1)”, “82”, “85”, “86”, “78”, “93” and “77(1) of the Capital Gains Tax Act 1979” there shall be substituted respectively “ 127 of the 1992 Act ”, “ 126(1) ”, “ 132 ”, “ 135 ”, “ 136 ”, “ 127 ”, “ 99 ”and “ 126(1) ”.
- (10) In section 187 for “153 of the Capital Gains Tax Act 1979” shall be substituted “ 274 of the 1992 Act ”.
- (11) In section 194 for “3 to the Capital Gains Tax Act 1979” there shall be substituted “ 8 to the 1992 Act ”.
- (12) In section 270 for “Capital Gains Tax Act 1979” and “63” there shall be substituted “ 1992 Act ”and “ 286 ”.
- (13) In section 272 at the end there shall be added “ and “the 1992 Act” means the Taxation of Chargeable Gains Act 1992. ”

*Finance Act 1985 c. 54*

- 9 In section 81 for “Capital Gains Tax Act 1979” there shall be substituted “ Taxation of Chargeable Gains Act 1992 ”.

*Trustee Savings Bank Act 1985 c. 58*

- 10 (1) In paragraph 2 of Schedule 2 to the Trustee Savings Bank Act 1985 —

*Status: Point in time view as at 15/02/1999.*

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- (a) for “Capital Gains Tax Act 1979” there shall be substituted “ 1992 Act ”; and
- (b) for “5 to the Act of 1979” there shall be substituted “ 2 to the 1992 Act ”.

(2) In paragraph 3 of that Schedule —

- (a) for “II of Part II of the Act of 1979” there shall be substituted “ III of Part II of the 1992 Act ”; and
- (b) for “12 of Schedule 5 to the Act of 1979” there shall be substituted “ 16 of Schedule 2 to the 1992 Act ”.

(3) In paragraph 4 of that Schedule —

- (a) for “Act of 1979” (in three places) there shall be substituted “ 1992 Act ”;
- (b) for “134” and “26” there shall be substituted respectively “ 251 ” and “ 30 ”; and
- (c) for “278 of the Taxes Act” (in both places) there shall be substituted “ 178 or 179 of the 1992 Act ”.

(4) In paragraph 9 —

- (a) at the end of sub-paragraph (1) there shall be added— “the 1992 Act” means the Taxation of Chargeable Gains Act 1992; ” and
- (b) in sub-paragraph (2) for “Capital Gains Tax Act 1979” there shall be substituted “ 1992 Act ”.

*Transport Act 1985 c. 67*

11 In section 130—

- (a) in subsection (3) for “Capital Gains Tax Act 1979” and “5” there shall be substituted “ Taxation of Chargeable Gains Act 1992 ” and “ 2 ”; and
- (b) in subsection (4) for “278 of the Income and Corporation Taxes Act 1970” there shall be substituted “ 178 or 179 of the Taxation of Chargeable Gains Act 1992 ”.

*Airports Act 1986 c. 31*

12 In section 77(2) of the Airports Act 1986 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “ 170(12) of the Taxation of Chargeable Gains Act 1992 ”.

*Gas Act 1986 c. 44*

13 In section 60(2) of the Gas Act 1986 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “ 170(12) of the Taxation of Chargeable Gains Act 1992 ”.

*Income and Corporation Taxes Act 1988 c. 1*

14 (1) The Income and Corporation Taxes Act 1988 shall have effect subject to the following amendments

(2) In section 11(2) for paragraph (b) there shall be substituted—

- “(b) such chargeable gains as are, by virtue of section 10(3) of the 1992 Act, to be, or be included in, the company's chargeable profits,”

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- (3) In section 56(5) for “82 of the 1979 Act” there shall be substituted “ 132 of the 1992 Act ”.
- (4) In section 119(1) after “122” there shall be inserted “ and section 201 of the 1992 Act ”.
- (5) In section 122(4)(a) for “subsection (1)(b) above” there shall be substituted “ section 201(1) of the 1992 Act ”.
- <sup>F91</sup>(6) .....
- (7) In section 128 for “72 of the Finance Act 1985” and “(2A)” there shall be substituted respectively “ 143 of the 1992 Act ”and “ (3) ”.
- <sup>F92</sup>(8) .....
- (9) In section 137(1)(b) and (2) for “1979” there shall be substituted “ 992 ”.
- (10) In section 139(14) for “32A(4) of the 1979 Act” there shall be substituted “ 120(4) of the 1992 Act ”.
- (11) In sections 140(3) and 162(10)(d) for “1979” and “150” there shall be substituted respectively “ 1992 ”and “ 272 ”.
- (12) In section 185—
- (a) in subsection (3)(b) for “29A(1) of the 1979 Act” there shall be substituted “ 17(1) of the 1992 Act ”; and
  - (b) in subsection (7) for “32(1)(a) of the 1979 Act” there shall be substituted “ 38(1)(a) of the 1992 Act ”.
- (13) In section 187(2) for “1979 Act” (in the definition of “market value”) and “77(1) (b) of the 1979 Act” (in the definition of “new holding”) there shall be substituted respectively “ 1992 Act ”and “ 126(1)(b) of the 1992 Act ”.
- (14) In section 220 for “52 of the 1979 Act” (in subsection (2)) and “1979” (in subsection (9)) there shall be substituted respectively “ 69 of the 1992 Act ”and “ 1992 ”.
- <sup>F93</sup>(15) .....
- (16) In section 251 for “150(3) of the 1979 Act” and “152 of the 1979 Act” there shall be substituted respectively “ 272(3) of the 1992 Act ”and “ 273 of the 1992 Act ”.
- (17) In sections 299 and 305 for “77(2)(a) of the 1979 Act” and “78” there shall be substituted respectively “ 126(2)(a) of the 1992 Act ”and “ 127 ”.
- (18) In section 312 for “86(1) of the 1979 Act” and “150 of the 1979 Act” there shall be substituted respectively “ 136(1) of the 1992 Act ”and “ 272 of the 1992 Act ”.
- (19) In section 399—
- (a) in subsection (1) for “72(1) of the Finance Act 1985” there shall be substituted “ 143(1) of the 1992 Act ”, and
  - (b) in subsection (5) for “72 of the Finance Act 1985” and “(2A)” there shall be substituted “ 143 of the 1992 Act ”and “ 143(3) ”respectively.
- (20) In section 400—



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- (a) in subsection (2)(e) for “345” there shall be substituted “ 8 of the 1992 Act ”; and
  - (b) in subsection (6) for “42 of the 1979” there shall be substituted “ 50 of the 1992 ”.
- (21) In section 438(8) for “149B(1)(h) of the 1979 Act” there shall be substituted “ 271(1) (h) of the 1992 Act ”.
- (22) In section 440—
- (a) in subsection (3) for “273 or 274 of the 1970 Act” there shall be substituted “ 171 or 173 the 1992 Act ”; and
  - (b) in subsection (5) for “1979” there shall be substituted “ 1992 ”.
- (23) In section 440A—
- (a) in subsection (5) for “66 of the 1979 Act” there shall be substituted “ 105 of the 1992 Act ”; and
  - (b) for subsection (6) there shall be substituted—
    - “(6) In this section—
    - “1982 holding” has the same meaning as in section 109 of the 1992 Act;
    - “new holding” has the same meaning as in section 104(3) of that Act; and
    - “securities” means shares, or securities of a company, and any other assets where they are of a nature to be dealt in without identifying the particular assets disposed or or acquired.”
- (24) In section 442 for “1979 Act” there shall be substituted “ 1992 Act ”.
- (25) In section 444A(8) for “88 of the 1979 Act” there shall be substituted “ 138 of the 1992 Act ”.
- (26) In section 450(6) for “31 or 33 of the 1979” there shall be substituted “ 37 or 39 of the 1992 ”.
- (27) In section 473—
- (a) in subsections (2) <sup>F94</sup>... for “77 to 86 of the 1979” and “84” there shall be substituted respectively “ 126 to 136 of the 1992 ”and “ 134 ”;
  - (b) in subsection (6) for “82 of the 1979 Act”, “86(7), 93 or 139” and “77 to 86” there shall be substituted respectively “ 132 of the 1992 Act ”, “ 136(3), 147 or 99 ”and “ 126 to 136 ”;
  - (c) in subsection (7) for “85 or 86 of the 1979” and “87(1)” there shall be substituted “ 135 or 136 of the 1992 ”and “ 137(1) ”respectively.
- (28) In section 477B(5) for “64(3E) of the Finance Act 1984” there shall be substituted “ 117(4) of the 1992 Act ”.
- <sup>F95</sup>(29) .....
- (30) In subsection (1) of section 502 in the definition of “ring fence profits” for “same meaning as in section 79(5) of the Finance Act 1984” there shall be substituted “ meaning given by subsection (1A) below ”and at the end of that subsection there shall be inserted—

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- “(1A) Where in accordance with section 197(3) of the 1992 Act a person has an aggregate gain for any chargeable period, that gain and his ring fence income (if any) for that period together constitute his ring fence profits for the purposes of this Chapter.”
- (31) In section 505(3), (5)(b) and (6) for “145 of the 1979 Act” there shall be substituted “ 256 of the 1992 Act ”.
- (32) In section 513(3) for “272(5) of the 1970 Act” there shall be substituted “ 170(12) of the 1992 Act ”.
- (33) In section 574(1) for “1979” there shall be substituted “ 1992 ”.
- (34) In section 575—
- (a) in subsection (1)(c) for “22(2) of the 1979 Act” there shall be substituted “ 24(2) of the 1992 Act ”;
  - (b) in subsection (2) for “78 of the 1979 Act” , in both places, there shall be substituted “ 127 of the 1992 Act ”; and
  - (c) in subsection (3) for “85 or 86 of the 1979 Act” and “87” there shall be substituted “ 135 or 136 of the 1992 Act ”and “ 137 ”.
- (35) In section 576—
- (a) in subsection (2) for “26 of the 1979 Act” and “(4)” there shall be substituted “ 30 of the 1992 Act ”and “ (5) ”; and
  - (b) in subsection (5)—
    - (i) for the definition of “holding” there shall be substituted— “holding” means any number of shares of the same class held by one person in one capacity, growing or diminishing as shares of that class are acquired or disposed of, but shares shall not be treated 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, and subsection (4) of section 104 of the 1992 Act shall apply for the purposes of this definition as it applies for the purposes of subsection (1) of that section; ”
    - (ii) for “the first proviso to section 79(1) of the 1979 Act” there shall be substituted “ paragraph (a) or (b) of section 128(2) ”; and
    - (iii) for “155(2) of the 1979 Act” there shall be substituted “ 288(3) of the 1992 Act ”.
- (36) In section 710—
- (a) in subsection (2A) for “64(3E) of the Finance Act 1984” there shall be substituted “ 117(4) of the 1992 Act ”; and
  - (b) in subsection (13) for “82 of the 1979” shall be substituted “ 132 of the 1992 ”.
- (37) In section 715(8) for “5(1) of Schedule 1 to the 1979”, “12(3) of the 1979” and “18(4) of the 1979” there shall be substituted respectively “ 1(1) of Schedule 1 to the 1992 ”, “ 10(6) of the 1992 ”and “ 275 of the 1992 ”.
- (38) In section 723(8) for “18(4) of the 1979” there shall be substituted “ 275 of the 1992 ”.
- <sup>F96</sup>(39) .....

*Status: Point in time view as at 15/02/1999.*

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- (40) In section 731(4B) for “(9) of section 137 of the 1979 Act” there shall be substituted “(8) of section 144 of the 1992 Act”.
- (41) In section 734(2) for “72(5)(b) of the 1979 Act” there shall be substituted “ 122(5)(b) of the 1992 Act”.
- (42) In section 740(6)(a) for “80 or 81(2) of the Finance Act 1981” there shall be substituted “ 87 or 89(2) of the 1992 Act”.
- (43) In section 757—
- (a) in subsection (1) for “78 of the 1979” there shall be substituted “ 127 of the 1992 ”;
  - (b) in subsection (2) for “1979” there shall be substituted “ 1992 ”;
  - (c) in subsections (3) and (4) for “49 of the 1979” there shall be substituted “ 62 of the 1992 ”;
  - (d) in subsection (5) for “85”, “1979” and “86” there shall be substituted respectively “ 135 ”, “ 1992 ” and “ 136 ”;
  - (e) in subsection (6) for “85(3) of the 1979” there shall be substituted “ 135(3) of the 1992 ”; and
  - (f) in subsection (7) for “Chapter II of Part II of the 1979” there shall be substituted “ Chapter III of Part II of the 1992 ”.
- (44) In section 758—
- (a) in subsection (5) for “78 of the 1979” there shall be substituted “ 127 of the 1992 ”; and
  - (b) in subsection (6) for “78 of the 1979”, “85”, “78 as” and “82” there shall be substituted respectively “ 127 of the 1992 ”, “ 135 ”, “ 127 as ” and “ 132 ”.
- (45) In section 759(9) for “1979” and “150(4)” there shall be substituted “ 1992 ” and “ 272(5) ”.
- (46) In section 760(4) for “78 of the 1979” there shall be substituted respectively “ 127 of the 1992 ”.
- (47) In section 761—
- (a) in subsection (2) for “2 and 12 of the 1979 Act” there shall be substituted “ 2(1) and 10 of the 1992 Act ”;
  - (b) in subsection (3) for “12 of the 1979 Act” there shall be substituted “ 10 of the 1992 Act ” and at the end of that subsection there shall be inserted “ and subsection (3) of that section (which makes similar provision in relation to corporation tax) shall have effect with the omission of the words “situated in the United Kingdom ”;
  - (c) in subsection (5) for “14 of the 1979 Act” there shall be substituted “ 12 of the 1992 Act ”;
  - (d) in subsections (6) and (7)(a) and (b) for “1979” there shall be substituted “ 1992 ”.
- (48) In section 762—
- (a) in subsection (1) for “15 of the 1979 Act” there shall be substituted “ 13 of the 1992 Act ”;
  - (b) in subsection (2)—

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- (i) for “80 to 84 of the Finance Act 1981” there shall be substituted “ 87 to 90 and 96 to 98 of the 1992 Act ”;
  - (ii) in paragraph (a) for “80(5)” there shall be substituted “ 87(6) ”;
  - (iii) in paragraph (b) for the words from the beginning to “1979” there shall be substituted “ in section 87(2) of the 1992 Act for the words “tax under section 2(2)” ;
  - (iv) in paragraph (c) for “80(6)” there shall be substituted “ 87(7) ”; and
  - (v) in paragraph (d) for “80(8) and 83(6)” there shall be substituted “ 87(10) and 97(6) ”;
  - (c) in subsection (3) for “80(5) of the Finance Act 1981” there shall be substituted “ 87(6) of the 1992 Act ”; and
  - (d) in subsection (4) for “80 of the Finance Act 1981” there shall be substituted “ 87 of the 1992 Act ”.
- (49) In section 763—
- (a) for “the 1979 Act disposal”, in each place, there shall be substituted “ the 1992 Act disposal ”;
  - (b) in subsections (1) and (6) for “1979” there shall be substituted “ 1992 ”;
  - (c) in subsection (2) for “31(1)” there shall be substituted “ 37(1) ”;
  - (d) in subsection (3) for “computation under Chapter II of Part II of the 1979 Act of any gain” there shall be substituted “ computation of the gain ”;
  - (e) in subsection (4) for “35” there shall be substituted “ 42 ”;
  - (f) in subsection (5) for “123” there shall be substituted “ 162 ”; and
  - (g) in subsection (6) for “79” there shall be substituted “ 128 ”.
- (50) In section 776(9) for “101 to 105 of the 1979” and “103(3)” there shall be substituted respectively “ 222 to 226 of the 1992 ”and “ 224(3) ”.
- (51) In section 777 in subsections (11) and (12) for “122 of the 1979” and “31 and 33 of the 1979” there shall be substituted “ 161 of the 1992 ”and “ 37 and 39 of the 1992 ”respectively.
- (52) In section 824(8) for “47 of the Finance (No.2) Act 1975” there shall be substituted “ 283 of the 1992 Act ”.
- (53) In section 831—
- (a) at the end of subsection (3) there shall be inserted— “the 1992 Act” means the Taxation of Chargeable Gains Act 1992. ”; and
  - (b) in subsection (5) for “1979” there shall be substituted “ 1992 ”.
- (54) In section 832(1) in the definition of “chargeable gain” for “1979” there shall be substituted “ 1992 ”.
- (55) In section 842(4) for “64, 93 and 155(1) of the 1979 Act” there shall be substituted “ 99 and 288 of the 1990 Act ”.
- (56) In section 843(2) for “10 of the 1979 Act” there shall be substituted “ 277 of the 1990 Act ”.
- <sup>F97</sup>(57) .....
- (58) In paragraph 5(7) of Schedule 10 for “1979” there shall be substituted “ 1992 ”.

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(59) In paragraph 12(2) of Schedule 20 for “145 of the 1979” there shall be substituted “256 of the 1992”.

(60) In paragraph 7 of Schedule 22 for “149B(1)(g) of the 1979” there shall be substituted “271(1)(g) of the 1992”.

<sup>F98</sup>(61) . . . . .

(62) In paragraph 3 of Schedule 26 for “II of Part II of the 1979” there shall be substituted “III of Part II of the 1992”.

(63) In Schedule 28—

(a) in paragraph 2 for “1979” and “Chapter III of Part III of the Finance Act 1982” there shall be substituted respectively “1992” and “the 1992 Act”;

(b) in paragraph 3—

(i) for “paragraph 2 of Schedule 13 to the Finance Act 1982” there shall be substituted “section 56(2) of the 1992 Act”;

(ii) for “123 of the 1979 Act” there shall be substituted “162 of the 1992 Act”;

(iii) in sub-paragraph (3) for the words from “section” to “shall” there shall be substituted “section 165 or 260 of the 1992 Act (relief for gifts) the claim shall”;

<sup>F99</sup>(iv) . . . . .

(v) for “29 of the 1979 Act” there shall be substituted “16 of the 1992 Act”;

(c) in paragraphs 4(3)(b) and 8(3) for “86(5) of or Schedule 13 to the Finance Act 1982” and “86(5)(b) of or Schedule 13 to the Finance Act 1982” there shall be substituted “56, 57, 131 or 145 of the 1992 Act” and for “1979” there shall be substituted “1992”.

#### Textual Amendments

**F91** Sch. 10 para. 14(6) repealed (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. V\(3\)](#) (with [Sch. 15](#))

**F92** Sch. 10 para. 14(8) repealed (with effect in accordance with Sch. 10 para. 7(1) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. VI\(10\)](#)

**F93** Sch. 10 para. 14(15) repealed (with effect in accordance with Sch. 3 of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. III\(2\)](#)

**F94** Words in Sch. 10 para. 14(27)(a) repealed (with effect in accordance with s. 164(5) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. V\(24\)](#)

**F95** Sch. 10 para. 14(29) repealed (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. V\(3\)](#) (with [Sch. 15](#))

**F96** Sch. 10 para. 14(39) repealed (with effect in accordance with Sch. 10 para. 7(1) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. VI\(10\)](#)

**F97** Sch. 10 para. 14(57) repealed (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. V\(3\)](#) (with [Sch. 15](#))

**F98** Sch. 10 para. 14(61) repealed (with effect in accordance with Sch. 10 para. 7(1) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. VI\(10\)](#)

**F99** Sch. 10 para. 14(63)(b)(iv) repealed (with effect in accordance with Sch. 8 para. 55 of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. VIII\(5\)](#)

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*British Steel Act 1988 c. 35*

- 15 In section 11(2) of the British Steel Act 1988 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “ 170(12) of the Taxation of Chargeable Gains Act 1992 ”.

*Finance Act 1988 c. 39*

- 16 (1) The Finance Act 1988 shall have effect subject to the following amendments.
- (2) In section 50(4) for “3 to the Capital Gains Tax Act 1979” there shall be substituted “ 8 to the Taxation of Chargeable Gains Act 1992 ”.
- (3) In section 68(4) for “29A(1) of the Capital Gains Tax Act 1979” there shall be substituted “ 17(1) of the Taxation of Chargeable Gains Act 1992 ”.
- (4) In section 82(3)—
- (a) for “78 to 81 of the Capital Gains Tax Act 1979” there shall be substituted “ 127 to 130 of the Taxation of Chargeable Gains Act 1992 ”; and
  - (b) for “78”, “79(1)” and “79(2)” there shall be substituted respectively “ 127 ”, “ 128(1) and (2) ” and “ 128(3) ”.
- (5) In section 84 for “32(1)(a) of the Capital Gains Tax Act 1979” there shall be substituted “ 38(1)(a) of the Taxation of Chargeable Gains Act 1992 ”.
- (6) In section 132(6) for “272 of the Taxes Act 1970” there shall be substituted “ 170 of the Taxation of Chargeable Gains Act 1992 ”.
- (7) In paragraph 6(2) of Schedule 12 for “72 of the Capital Gains Tax Act 1979” there shall be substituted “ 122 of the Taxation of Chargeable Gains Act 1992 ”.

*Health and Medicines Act 1988 c. 49*

- 17 In section 6(2) of the Health and Medicines Act 1988 for “272(5) of the Income and Corporation Taxes Act 1970” there shall be substituted “ 170(12) of the Taxation of Chargeable Gains Act 1992 ”.

*Water Act 1989 c. 15*

- 18 In section 95 of the Water Act 1989—
- (a) in subsection (4) for “Capital Gains Tax Act 1979 (“the 1979 Act”)” there shall be substituted “ Taxation of Chargeable Gains Act 1992 (“the 1992 Act”) ”;
  - (b) in subsection (5) for “1979” there shall be substituted “ 1992 ”; and
  - (c) in subsection (6) for “134 of the 1979” there shall be substituted “ 251 of the 1992 ”.

*Finance Act 1989 c. 26*

- 19 (1) In section 69(9) of the Finance Act 1989 for “85(1) of the Capital Gains Tax Act 1979” and “77” there shall be substituted “ 135(1) of the Taxation of Chargeable Gains Act 1992 ” and “ 126 ”.
- (2) In section 70(2) of that Act for “Capital Gains Tax Act 1979” and “32(1)(a)” there shall be substituted “ Taxation of Chargeable Gains Act 1992 ” and “ 38(1)(a) ”.

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(3) In section 158(2) of that Act in paragraph (a) for “section 47(1) of the Finance (No.2) Act 1975” there shall be substituted “ section 283(1) of the Taxation of Chargeable Gains Act 1992 ”.

(4) In section 178(2) of that Act for paragraph (i) there shall be substituted—  
“(i) section 283 of the Taxation of Chargeable Gains Act 1992”;

(5) In Schedule 5 to that Act in paragraphs 8 and 11 for “85(1) of the Capital Gains Tax Act 1979” and “77” there shall be substituted “ 135(1) of the Taxation of Chargeable Gains Act 1992 ”and “ 126 ”.

**F100**(6) .....

**Textual Amendments**

**F100** Sch. 10 para. 19(6) repealed (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. V\(3\)](#) (with [Sch. 15](#))

*Electricity Act 1989 c. 29*

20 (1) In paragraph 2 of Schedule 11 to the Electricity Act 1989 for “278 of the Income and Corporation Taxes Act 1970” and “272 of the Income and Corporation Act 1970” there shall be substituted respectively “ 178 or 179 of the 1992 Act ”and “ 170 of the 1992 Act ”; and at the end of that paragraph there shall be added—

“(2A) In this Schedule “the 1992 Act” means the Taxation of Chargeable Gains Act 1992.”

(2) In paragraph 3 of that Schedule for “117 of the Capital Gains Tax Act 1979” and “117” (where it secondly appears) there shall be substituted “ 154 of the 1992 Act ”and “ 154 ”.

(3) In paragraphs 4 and 5 of that Schedule for “Capital Gains Tax Act 1979” (in each place) there shall be substituted “ 1992 Act ”.

*Capital Allowances Act 1990 c. 1*

21 (1) The following section shall be inserted in the Capital Allowances Act 1990 after section 118—

*“Disposals of oil licences relating to undeveloped areas*

**118A**) If, at the time of the material disposal of a licence, the licence relates to an undeveloped area, then, to the extent that the consideration for the disposal consists of—

- (a) another licence which at that time relates to an undeveloped area or an interest in another such licence, or
- (b) an obligation to undertake exploration work or appraisal work in an area which is or forms part of the licensed area in relation to the licence disposed of,

the value of that consideration shall be treated as nil for the purposes of this Part and Part VII.

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- (2) For the purposes of this section “material disposal” means a disposal (including a part disposal) other than a disposal in relation to which sections 157 and 158 of this Act have effect.
- (3) If a material disposal of a licence which, at the time of the disposal, relates to an undeveloped area is part of a larger transaction under which one party makes to another material disposals of two or more licences, each of which at the time of the disposal relates to an undeveloped area, the reference in subsection (1)(b) above to the licensed area in relation to the licence disposed of shall be construed as a reference to the totality of the licensed areas in relation to those two or more licences.
- (4) Expressions used in this section and in section 194 of the Taxation of Chargeable Gains Act 1992 have the same meaning in this section as they have in that.”
- (2) In section 138 of that Act the following subsection shall be inserted after subsection (7)—
- “(7A) Where the relevant event is the material disposal of a licence for the purposes of section 118A, subsection (4) above shall have effect subject to that section.”

*Finance Act 1990 c. 29*

- 22 (1) The Finance Act 1990 shall have effect subject to the following amendments.
- (2) In section 116(5) for “150(1) to (3) and 152 of the Capital Gains Tax Act 1979” there shall be substituted “ 272(1) to (4) and 273 of the Taxation of Chargeable Gains Act 1992 ”.
- (3) In section 120 for “27 of the Capital Gains Tax Act 1979” there shall be substituted “ 28 of the Taxation of Chargeable Gains Act 1992 ”.
- <sup>F101</sup>(4) .....
- (5) In Schedule 12—
- (a) in paragraph 2—
- (i) for “the Capital Gains Tax Act 1979 (“the 1979 Act”)” there shall be substituted “ the Taxation of Chargeable Gains Act 1992 (“the 1992 Act”) ”;
- (ii) for “5” there shall be substituted “ 2 ”; and
- (iii) for “134 of the 1979” there shall be substituted “ 251 of the 1992 ”;
- (b) in paragraphs 4, 5 and 6 for “1979” there shall be substituted “ 1992 ”;
- (c) in paragraph 7 for “115 to 119 of the 1979” there shall be substituted “ 152 to 156 of the 1992 ”; and
- (d) in paragraph 10 for the definition of “the 1979 Act” there shall be substituted — “the 1992 Act” means the Taxation of Chargeable Gains Act 1992. ”

**Textual Amendments**

**F101** Sch. 10 para. 22(4) repealed (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. V\(3\)](#) (with [Sch. 15](#))



*Status: Point in time view as at 15/02/1999.*

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*Finance Act 1991 c. 31.*

- 23 In section 72(4) of the Finance Act 1991 for “5(1) of the Capital Gains Tax Act 1979” there shall be substituted “ 3(1) of the Taxation of Chargeable Gains Act 1992 ”.

*Ports Act 1991 c. 52*

- 24 (1) In section 16 of the Ports Act 1991 for “Capital Gains Tax Act 1979” and “29A(1)” there shall be substituted respectively “ 1992 Act ”and “ 17(1) ”.

(2) In section 17 of that Act—

- (a) for “1979” (wherever it occurs) there shall be substituted “ 1992 ”;
- (b) in subsection (6) for “278(3) or (3C) of the Income and Corporation Taxes Act 1970” there shall be substituted “ 178(3) or (5) or 179(3) or (6) of the 1992 Act ”;
- (c) in subsection (7)—

(i) for paragraph (a) there shall be substituted—

“(a) “the relevant six-year limit” means in relation to section 178(3) or 179(3) the six year period mentioned in section 178(1) or 179(1) and in relation to section 178(5) or 179(6) the six year period mentioned in 178(5)(a) or 179(6)(a); and”;

(ii) in paragraph (b) for “278(3)”, “278(3C)” and “subsection (3D) of that section” there shall be substituted “ 178(3) or 179(3) ”, “ 178(5) or 179(6) ”and “ section 178(6) or 179(7) ”respectively; and

- (d) in subsection (13) for “272 to 281 of the Income and Corporation Taxes Act 1970”, “(1E) and (1F) of section 272” and “(1E)” there shall be substituted “ 170 to 181 of the 1992 Act ”, “ (7) and (8) of section 170 ”and “ (7) ”respectively.

(3) In section 18 of that Act—

- (a) in subsections (2) and (8) for “1979” there shall be substituted “ 1992 ”;
- (b) in subsection (4) for “267(1) or 273(1) of the Income and Corporation Taxes Act 1970” there shall be substituted “ 139(1) or 171(1) of the 1992 Act ”.

(4) In section 20 of that Act for “27 of the Capital Gains Tax Act 1979” there shall be substituted “ 28 of the 1992 Act ”.

(5) In section 35 of that Act—

- (a) in subsection (3) for “Capital Gains Tax Act 1979” there shall be substituted “ 1992 Act ”; and
- (b) in subsection (6) for “278 of the Income and Corporation Taxes Act 1970” and “273 to 281” there shall be substituted “ 178 or 179 of the 1992 Act ”and “ 171 to 181 ”.

(6) In section 40(1) of that Act there shall be added at the end “ and “the 1992 Act” means the Taxation of Chargeable Gains Act 1992. ”

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*British Technology Group Act 1991 c. 66*

- 25 In section 12(2) of the British Technology Group Act 1991 for “345 of the Income and Corporation Taxes Act 1988” there shall be substituted “ 8 of the Taxation of Chargeable Gains Act 1992 ”.

SCHEDULE 11

Section 290.

TRANSITIONAL PROVISIONS AND SAVINGS

**PART I**

VALUATION

*Preliminary*

- 1 (1) This Part of this Schedule has effect in cases where the market value of an asset at a time before the commencement of this Act is material to the computation of a gain under this Act; and in this Part any reference to an asset includes a reference to any part of an asset.
- (2) Where sub-paragraph (1) above applies, the market value of an asset (or part of an asset) at any time before the commencement of this Act shall be determined in accordance with sections 272 to 274 but subject to the following provisions of this Part.
- (3) In any case where section 274 applies in accordance with sub-paragraph (2) above the reference in that section to inheritance tax shall be construed as a reference to capital transfer tax.

*Gifts and transactions between connected persons before 20th March 1985*

- 2 (1) Where sub-paragraph (1) above applies for the purpose of determining the market value of any asset at any time before 20th March 1985 (the date when section 71 of the Finance Act 1985, now section 19, replaced section 151 of the 1979 Act, which is reproduced below) sub-paragraphs (2) to (4) below shall apply.
- (2) Except as provided by sub-paragraph (4) below section 19 shall not apply in relation to transactions occurring before 20th March 1985.
- (3) If a person is given, or acquires from one or more persons with whom he is connected, by way of 2 or more gifts or other transactions, assets of which the aggregate market value, when considered separately in relation to the separate gifts or other transactions, is less than their aggregate market value when considered together, then for the purposes of this Act their market value shall be taken to be the larger market value, to be apportioned rateably to the respective disposals.
- (4) Where—
- (a) one or more transactions occurred on or before 19th March 1985 and one or more after that date, and

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- (b) had all the transactions occurred before that date sub-paragraph (3) above would apply, and had all the transactions occurred after that date section 19 would have applied,

then those transactions which occurred on or before that date and not more than 2 years before the first of those which occurred after that date shall be treated as material transactions for the purposes of section 19.

*Valuation of assets before 6th July 1973*

3 Section 273 shall apply for the purposes of determining the market value of any asset at any time before 6th July 1973 (the date when the provisions of section 51(1) to (3) of the Finance Act 1973, which are now contained in section 273, came into force) notwithstanding that the asset was acquired before that date or that the market value of the asset may have been fixed for the purposes of a contemporaneous disposal, and in paragraphs 4 and 5 below a “section 273 asset” is an asset to which section 273 applies.

4 (1) This paragraph applies if, in a case where the market value of a section 273 asset at the time of its acquisition is material to the computation of any chargeable gain under this Act—

(a) the acquisition took place on the occasion of a death occurring after 30th March 1971 and before 6th July 1973, and

(b) by virtue of paragraph 9 below, the principal value of the asset for the purposes of estate duty on that death would, apart from this paragraph, be taken to be the market value of the asset at the date of the death for the purposes of this Act.

(2) If the principal value referred to in sub-paragraph (1)(b) above falls to be determined as mentioned in section 55 of the Finance Act 1940 or section 15 of the Finance (No.2) Act (Northern Ireland) 1946 (certain controlling shareholdings to be valued on an assets basis), nothing in section 273 shall affect the operation of paragraph 9 below for the purpose of determining the market value of the asset at the date of the death.

(3) If sub-paragraph (2) above does not apply, paragraph 9 below shall not apply as mentioned in sub-paragraph (1)(b) above and the market value of the asset on its acquisition at the date of the death shall be determined in accordance with sections 272 (but with the same modifications as are made by paragraphs 7 and 8 below) and 273.

5 (1) In any case where—

(a) before 6th July 1973 there has been a part disposal of a section 273 asset (“the earlier disposal”), and

(b) by virtue of any enactment, the acquisition of the asset or any part of it was deemed to be for a consideration equal to its market value, and

(c) on or after 6th July 1973 there is a disposal (including a part disposal) of the property which remained undisposed of immediately before that date (“the later disposal”),

sub-paragraph (2) below shall apply in computing any chargeable gain accruing on the later disposal.

(2) Where this sub-paragraph applies, the apportionment made by virtue of paragraph 7 of Schedule 6 to the Finance Act 1965 (corresponding to section 42 of this Act) on the

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occasion of the earlier disposal shall be recalculated on the basis that section 273(3) of this Act was in force at the time and applied for the purposes of the determination of—

- (a) the market value referred to in sub-paragraph (1)(b) above, and
- (b) the market value of the property which remained undisposed of after the earlier disposal, and
- (c) if the consideration for the earlier disposal was, by virtue of any enactment, deemed to be equal to the market value of the property disposed of, that market value.

*Valuation of assets on 6th April 1965*

- 6 (1) For the purpose of ascertaining the market value of any shares or securities in accordance with paragraph 1(2) of Schedule 2, section 272 shall have effect subject to the provisions of this paragraph.
- (2) Subsection (3)(a) shall have effect as if for the words, “one-quarter” there were substituted the words “one-half”, and as between the amount under paragraph (a) and the amount under paragraph (b) of that subsection the higher, and not the lower, amount shall be chosen.
- (3) Subsection (5) shall have effect as if for the reference to an amount equal to the buying price there were substituted a reference to an amount halfway between the buying and selling prices.
- (4) Where the market value of any shares or securities not within section 272(3) falls to be ascertained by reference to a pair of prices quoted on a stock exchange, an adjustment shall be made so as to increase the market value by an amount corresponding to that by which any market value is increased under sub-paragraph (2) above.

*References to the London Stock Exchange before 25th March 1973 and Exchange Control restrictions before 13th December 1979*

- 7 (1) For the purposes of ascertaining the market value of an asset before 25th March 1973 section 272(3) and (4) shall have effect subject to the following modifications—
  - (a) for “[<sup>F102</sup>quoted] in The Stock Exchange Daily Official List” and “quoted in that List” there shall be substituted respectively “quoted on the London Stock Exchange” and “so quoted”;
  - (b) for “The Stock Exchange Daily Official List” there shall be substituted “the Stock Exchange Official Daily List”;
  - (c) for “The Stock Exchange provides a more active market elsewhere than on the London trading floor” there shall be substituted “some other stock exchange in the United Kingdom affords a more active market”; and
  - (d) for “if the London trading floor is closed” there shall be substituted “if the London Stock Exchange is closed”.
- (2) For the purposes of ascertaining the market value of an asset before 13th December 1979 section 272 shall have effect as if the following subsection were inserted after subsection (5)—
 

“(5A) In any case where the market value of an asset is to be determined at a time before 13th December 1979 and the asset is of a kind the sale of which was (at

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the time the market value is to be determined) subject to restrictions imposed under the Exchange Control Act 1947 such that part of what was paid by the purchaser was not retainable by the seller, the market value, as arrived at under subsection (1), (3), (4) or (5) above, shall be subject to such adjustment as is appropriate having regard to the difference between the amount payable by a purchaser and the amount receivable by a seller.”

#### Textual Amendments

**F102** Word in Sch. 11 para. 7(1)(a) substituted (with effect in accordance with Sch. 38 para. 12(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 38 para. 12\(2\)](#)

#### *Depreciated valuations referable to deaths before 31st March 1973*

- 8 In any case where this Part applies, section 272(2) shall have effect as if the following proviso were inserted at the end—

Provided that where capital gains tax is chargeable, or an allowable loss accrues, in consequence of a death before 31st March 1973 and the market value of any property on the date of death taken into account for the purposes of that tax or loss has been depreciated by reason of the death, the estimate of the market value shall take that depreciation into account.

#### *Estate duty*

- 9 (1) Where estate duty (including estate duty leviable under the law of Northern Ireland) is chargeable in respect of any property passing on a death after 30th March 1971 and the principal value of an asset forming part of that property has been ascertained (whether in any proceedings or otherwise) for the purposes of that duty, the principal value so ascertained shall, subject to paragraph 4(3) above, be taken for the purposes of this Act to be the market value of that asset at the date of the death.
- (2) Where the principal value has been reduced under section 35 of the Finance Act 1968 or section 1 of the Finance Act (Northern Ireland) 1968 (tapering relief for gifts inter vivos etc.), the reference in sub-paragraph (1) above to the principal value as ascertained for the purposes of estate duty is a reference to that value as so ascertained before the reduction.

## PART II

### OTHER TRANSITORY PROVISIONS

#### *Value-shifting*

- 10 (1) Section 30 applies only where the reduction in value mentioned in subsection (1) of that section (or, in a case within subsection (9) of that section, the reduction or increase in value) is after 29th March 1977.
- (2) No account shall be taken by virtue of section 31 of any reduction in the value of an asset attributable to the payment of a dividend before 14th March 1989.

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- (3) No account shall be taken by virtue of section 32 of any reduction in the value of an asset attributable to the disposal of another asset before 14th March 1989.
- (4) Section 34 shall not apply where the reduction in value, by reason of which the amount referred to in subsection (1)(b) of that section falls to be calculated, occurred before 14th March 1989.

*Assets acquired on disposal chargeable under Case VII of Schedule D*

- 11 (1) In this paragraph references to a disposal chargeable under Case VII are references to cases where the acquisition and disposal was in circumstances that the gain accruing on it was chargeable under Case VII of Schedule D, or where it would have been so chargeable if there were a gain so accruing.
- (2) The amount or value of the consideration for the acquisition of an asset by the person acquiring it on a disposal chargeable under Case VII shall not under any provision of this Act be deemed to be an amount greater than the amount taken into account as consideration on that disposal for the purposes of Case VII.
- (3) Any apportionment of consideration or expenditure falling to be made in relation to a disposal chargeable under Case VII in accordance with section 164(4) of the Income and Corporation Taxes Act 1970, and in particular in a case where section 164(6) of that Act (enhancement of value of land by acquisition of adjoining land) applied, shall be followed for the purposes of this Act both in relation to a disposal of the assets acquired on the disposal chargeable under Case VII and, where the disposal chargeable under Case VII was a part disposal, in relation to a disposal of what remains undisposed of.
- (4) Sub-paragraph (3) above has effect notwithstanding section 52(4).

*Unrelieved Case VII losses*

- 12 Where no relief from income tax (for a year earlier than 1971-72) has been given in respect of a loss or part of a loss allowable under Case VII of Schedule D, the loss or part shall, notwithstanding that the loss accrued before that year, be an allowable loss for the purposes of capital gains tax, but subject to any restrictions imposed by section 18.

*Devaluation of sterling: securities acquired with borrowed foreign currency*

- 13 (1) This paragraph applies where, in pursuance of permission granted under the Exchange Control Act 1947, currency other than sterling was borrowed before 19th November 1967 for the purpose of investing in foreign securities (and had not been repaid before that date), and it was a condition of the permission—
  - (a) that repayment of the borrowed currency should be made from the proceeds of the sale in foreign currency of the foreign securities so acquired or out of investment currency, and
  - (b) that the foreign securities so acquired should be kept in separate accounts to distinguish them from others in the same ownership,
 and securities held in such a separate account on 19th November 1967 are in this paragraph referred to as “designated securities” .

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- (2) In computing the gain accruing to the borrower on the disposal of any designated securities or on the disposal of any currency or amount standing in a bank account on 19th November 1967 and representing the loan, the sums allowable as a deduction under section 38(1)(a) shall, subject to sub-paragraph (3) below, be increased by multiplying them by seven-sixths.
- (3) The total amount of the increases so made in computing all gains (and losses) which are referable to any one loan (made before 19th November 1967) shall not exceed one-sixth of the sterling parity value of that loan at the time it was made.
- (4) Designated securities which on the commencement of this paragraph constitute a separate 1982 holding (within the meaning of section 109), shall continue to constitute a separate 1982 holding until such time as a disposal takes place on the occurrence of which sub-paragraph (3) above operates to limit the increases which would otherwise be made under sub-paragraph (2) in allowable deductions.
- (5) In this paragraph and paragraph 14 below, “foreign securities” means securities expressed in a currency other than sterling, or shares having a nominal value expressed in a currency other than sterling, or the dividends on which are payable in a currency other than sterling.

*Devaluation of sterling: foreign insurance funds*

- 14
- (1) The sums allowable as a deduction under section 38(1)(a) in computing any gains to which this paragraph applies shall be increased by multiplying by seven-sixths.
  - (2) This paragraph applies to gains accruing—
    - (a) to any underwriting member of Lloyd's, or
    - (b) to any company engaged in the business of marine protection and indemnity insurance on a mutual basis, on the disposal by that person after 18th November 1967 of any foreign securities which on that date formed part of a trust fund—
      - (i) established by that person in any country or territory outside the United Kingdom, and
      - (ii) representing premiums received in the course of that person's business, and
      - (iii) wholly or mainly used for the purpose of meeting liabilities arising in that country or territory in respect of that business.

*Gilt-edged securities past redemption date*

- 15
- So far as material for the purposes of this or any other Act, the definition of “gilt-edged securities” in Schedule 9 to this Act shall include any securities which were gilt-edged securities for the purposes of the 1979 Act, and the redemption date of which fell before 1st January 1992.

*Qualifying corporate bonds, company reorganisations, share conversions etc.*

- 16
- (1) Part IV of this Act has effect subject to the provisions of this paragraph.
  - (2) The substitution of Chapter II of that Part for the enactments repealed by this Act shall not alter the law applicable to any reorganisation or reduction of share capital,

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conversion of securities or company amalgamation taking place before the coming into force of this Act.

- (3) Sub-paragraph (2) above applies in particular to the law determining whether or not any assets arising on an event mentioned in that sub-paragraph are to be treated as the same asset as the original holding of shares, securities or other assets.
- (4) In relation to a disposal or exchange on or after 6th April 1992, the following amendments shall be regarded as always having had effect, that is to say, the amendments to section 64 of, or Schedule 13 to, the Finance Act 1984 made by section 139 of, or paragraph 6 of Schedule 14 to, the Finance Act 1989, paragraph 28 of Schedule 10 to the Finance Act 1990 or section 98 of, or paragraph 1 of Schedule 10 to, the Finance Act 1991, or by virtue of the amendments to paragraph 1 of Schedule 18 to the Taxes Act made by section 77 of the Finance Act 1991.

*Land: allowance for betterment levy*

- 17 (1) Where betterment levy charged in the case of any land in respect of an act or event which fell within Case B or Case C or, if it was the renewal, extension or variation of a tenancy, Case F—
  - (a) has been paid, and
  - (b) has not been allowed as a deduction in computing the profits or gains or losses of a trade for the purposes of Case I of Schedule D;
 then, if the person by whom the levy was paid disposes of the land or any part of it and so claims, the following provisions of this paragraph shall have effect.
- (2) Paragraph 9 of Schedule 2 shall apply where the condition stated in sub-paragraph (1)
  - (a) of that paragraph is satisfied, notwithstanding that the condition in sub-paragraph (1)(b) of that paragraph is not satisfied.
- (3) Subject to the following provisions of this paragraph, there shall be ascertained the excess, if any, of—
  - (a) the net development value ascertained for the purposes of the levy, over
  - (b) the increment specified in sub-paragraph (6) below;
 and the amount of the excess shall be treated as an amount allowable under section 38(1)(b).
- (4) Where the act or event in respect of which the levy was charged was a part disposal of the land, section 38 shall apply as if the part disposal had not taken place and sub-paragraph (5) below shall apply in lieu of sub-paragraph (3) above.
- (5) The amount or value of the consideration for the disposal shall be treated as increased by the amount of any premium or like sum paid in respect of the part disposal, and there shall be ascertained the excess, if any, of—
  - (a) the aggregate specified in sub-paragraph (7) below, over
  - (b) the increment specified in sub-paragraph (6) below;
 and the amount of the excess shall be treated as an amount allowable under section 38(1)(b).
- (6) The increment referred to in sub-paragraphs (3)(b) and (5)(b) above is the excess, if any, of—
  - (a) the amount or value of the consideration brought into account under section 38(1)(a), over



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- (b) the base value ascertained for the purposes of the levy.
- (7) The aggregate referred to in sub-paragraph (5)(a) above is the aggregate of—
- (a) the net development value ascertained for the purposes of the levy, and
  - (b) the amount of any premium or like sum paid in respect of the part disposal, in so far as charged to tax under Schedule A (or, as the case may be, Case VIII of Schedule D), and
  - (c) the chargeable gain accruing on the part disposal.
- (8) Where betterment levy in respect of more than one act or event has been charged and paid as mentioned in sub-paragraph (1) above, sub-paragraphs (2) to (7) above shall apply without modifications in relation to the betterment levy in respect of the first of them; but in relation to the other or others sub-paragraph (3) or, as the case may be, (5) above shall have effect as if the amounts to be treated thereunder as allowable under section 38(1)(b) were the net development value specified in sub-paragraph (3)(a) or, as the case may be, the aggregate referred to in subparagraph (5) (a) of this paragraph.
- (9) Where the disposal is of part only of the land sub-paragraphs (2) to (8) above shall have effect subject to the appropriate apportionments.
- (10) References in this paragraph to a premium include any sum payable as mentioned in section 34(4) or (5) of the Taxes Act (sums payable in lieu of rent or as consideration for the surrender of lease or for variation or waiver of term) and, in relation to Scotland, a grassum.

#### *Non-resident trusts*

- 18 Without prejudice to section 289 or Part III of this Schedule—
- (a) any tax chargeable on a person which is postponed under subsection (4)(b) of section 17 of the 1979 Act shall continue to be postponed until that person becomes absolutely entitled to the part of the settled property concerned or disposes of the whole or part of his interest, as mentioned in that subsection; and
  - (b) section 70 of and Schedule 14 to the Finance Act 1984 shall continue to have effect in relation to amounts of tax which are postponed under that Schedule, and accordingly in paragraph 12 of that Schedule the references to section 80 of the Finance Act 1981 and to subsections (3) and (4) of that section include references to section 87 of this Act and subsections (4) and (5) of that section respectively.

#### *Private residences*

- 19 The reference in section 222(5)(a) to a notice given by any person within 2 years from the beginning of the period mentioned in section 222(5) includes a notice given before the end of the year 1966-67, if that was later.

#### *Works of art etc.*

- 20 The repeals made by this Act do not affect the continued operation of sections 31 and 32 of the Finance Act 1965, in the form in which they were before 13th March 1975, in relation to estate duty in respect of deaths occurring before that date.

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*Disposal before acquisition*

- 21 The substitution of this Act for the corresponding enactments repealed by this Act shall not alter the effect of any provision enacted before this Act (whether or not there is a corresponding provision in this Act) so far as it relates to an asset which—
- (a) was disposed of before being acquired, and
  - (b) was disposed of before the commencement of this Act.

*Estate duty*

- 22 Nothing in the repeals made by this Act shall affect any enactment as it applies to the determination of any principal value for the purposes of estate duty.

*Validity of subordinate legislation*

- 23 So far as this Act re-enacts any provision contained in a statutory instrument made in exercise of powers conferred by any Act, it shall be without prejudice to the validity of that provision, and any question as to its validity shall be determined as if the re-enacted provision were contained in a statutory instrument made under those powers.

*Amendments in other Acts*

- 24 (1) The repeal by this Act of the Income and Corporation Taxes Act 1970 does not affect—
- (a) the amendment made by paragraph 3 of Schedule 15 of that Act to section 26 of the Finance Act 1956, or
  - (b) paragraph 10 of that Schedule so far it applies in relation to the Management Act.
- (2) The repeal by this Act of Schedule 7 to the 1979 Act does not affect the amendments made by that Schedule to any enactment not repealed by this Act.

*Saving for Part III of this Schedule*

- 25 The provisions of this Part of this Schedule are without prejudice to the generality of Part III of this Schedule.

**PART III**

ASSETS ACQUIRED BEFORE COMMENCEMENT

- 26 (1) The substitution of this Act for the enactments repealed by this Act shall not alter the effect of any provision enacted before this Act (whether or not there is a corresponding provision in this Act) so far as it determines—
- (a) what amount the consideration is to be taken to be for the purpose of the computation under this Act of any chargeable gain; or
  - (b) whether and to what extent events in, or expenditure incurred in, or other amounts referable to, a period earlier than the chargeable periods to which this Act applies may be taken into account for any tax purposes in a chargeable period to which this Act applies.

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- (2) Without prejudice to sub-paragraph (1) above, the repeals made by this Act shall not affect—
- (a) the enactments specified in Part V of Schedule 14 to the Finance Act 1971 (charge on death) so far as their operation before repeal falls to be taken into account in chargeable periods to which this Act applies,
  - (b) the application of the enactments repealed by the 1979 Act to events before 6th April 1965 in accordance with paragraph 31 of Schedule 6 to the Finance Act 1965.
- (3) This paragraph has no application to the law relating to the determination of the market value of assets.
- 27 Where the acquisition or provision of any asset by one person was, immediately before the commencement of this paragraph and by virtue of any enactment, to be taken for the purposes of Schedule 5 to the 1979 Act to be the acquisition or disposal of it by another person, then, notwithstanding the repeal by this Act of that enactment, Schedule 2 to this Act shall also have effect as if the acquisition or provision of the asset by the first-mentioned person had been the acquisition or provision of it by that other person.

## PART IV

### OTHER GENERAL SAVINGS

- 28 Where under any Act passed before this Act and relating to a country or territory outside the United Kingdom there is a power to affect Acts passed or in force before a particular time, or instruments made or having effect under such Acts, and the power would, but for the passing of this Act, have included power to change the law which is reproduced in, or is made or has effect under, this Act, then that power shall include power to make such provision as will secure the like change in the law reproduced in, or made or having effect under, this Act notwithstanding that this Act is not an Act passed or in force before that time.
- 29 (1) The continuity of the law relating to the taxation of chargeable gains shall not be affected by the substitution of this Act for the enactments repealed by this Act and earlier enactments repealed by and corresponding to any of those enactments (“the repealed enactments”).
- (2) Any reference, whether express or implied, in any enactment, instrument or document (including this Act or any Act amended by this Act) to, or to things done or falling to be done under or for the purposes of, any provision of this Act shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.
- (3) Any reference, whether express or implied, in any enactment, instrument or document (including the repealed enactments and enactments, instruments and documents passed or made after the passing of this Act) to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the

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corresponding provision of this Act has effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.

## SCHEDULE 12

Section 290.

## REPEALS

Chapter	Short title	Extent of Repeal
1968 c. 48	International Organisations Act 1968	In Schedule 1, paragraph 24(b).
1970 c. 10	Income and Corporation Taxes Act 1970	The whole Act.
1970 c. 24	Finance Act 1970	Sections 27 and 28. Section 29(3), (5), (6), (7) and (9). Schedule 3. Schedule 6.
1971 c. 68	Finance Act 1971	Section 55.
1973 c. 51	Finance Act 1973	Section 38(1), (3) to (5) and (8).
1974 c. 30	Finance Act 1974	Section 29.
1974 c. 44	Housing Act 1974	Section 11.
1975 c. 45	Finance (No.2) Act 1975	Section 47. Section 58.
1976 c. 40	Finance Act 1976	Section 54. In section 131(2) the words "and capital gains tax".
1977 c. 36	Finance Act 1977	Sections 41 and 42.
1979 c. 14	Capital Gains Tax Act 1979	The whole Act.
1979 c. 47	Finance (No.2) Act 1979	Section 17.
1980 c. 48	Finance Act 1980	Section 61(2). Sections 77 to 84. Section 117. Schedule 18.
1981 c. 35	Finance Act 1981	Section 38(3) and (4). Sections 79 to 91.

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		In section 135 the words “capital gains tax and”.
1982 c. 39	Finance Act 1982	Section 80. Sections 83 to 88. Section 148. Schedule 13.
1982 c. 53	Administration of Justice Act 1982	Section 46(2)(f).
1983 c. 20	Mental Health Act 1983	In Schedule 4 paragraph 49.
1983 c. 28	Finance Act 1983	Section 34. Schedule 6.
1983 c. 49	Finance (No.2) Act 1983	Section 7.
1984 c. 32	London Regional Transport Act 1984	In Schedule 6 paragraphs 7 and 8.
1984 c. 43	Finance Act 1984	Section 44. Section 50. Section 56(3) and (4). Sections 63 to 71. Section 79 to 81. In section 126(3)(b) the words “and capital gains tax”. Schedules 11, 13 and 14.
1984 c. 51	Inheritance Tax Act 1984	In Schedule 8 paragraphs 9 to 12 and 23.
1985 c. 54	Finance Act 1985	Sections 67 to 72. Section 95(1)(b). Schedules 19 to 21.
1985 c. 71	Housing (Consequential Provisions) Act 1985	In Schedule 2 paragraph 18.
1986 c. 41	Finance Act 1986	Sections 58, 59 and 60.
1986 c. 56	Parliamentary Constituencies Act 1986	In Schedule 3 paragraph 6.
1987 c. 16	Finance Act 1987	Section 40. Section 68(3).
1987 c. 51	Finance (No.2) Act 1987	Section 64. Section 73. Sections 79, 80 and 81.

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		In Schedule 6, paragraphs 2, 4 and 5.
1988 c. 1	Income and Corporation Taxes Act 1988	Section 122(1)(b) (and the word “and” immediately preceding it), (3) and (8). Sections 345 to 347. Section 761(4). In Schedule 28, paragraph 8(4) and (5). In Schedule 29, paragraphs 10(4)(b), 12 and 15 to 28; in the Table in paragraph 32, the entries relating to the Income and Corporation Taxes Act 1970, the Finance Act 1970, the Finance (No.2) Act 1975, the Capital Gains Tax Act 1979, Schedule 18 to the Finance Act 1980, sections 83 and 84 of the Finance Act 1981, Schedule 6 to the Finance Act 1983, section 50 of the Finance Act 1984, sections 68, 71 and 72 of, and Schedules 19 and 20 to, the Finance Act 1985 and section 58 of the Finance Act 1986.
1988 c. 39	Finance Act 1988	Section 62 to 64. Sections 96 to 104. Section 105(1) to (5). Sections 106 to 116. Section 118. In Schedule 6, paragraph 6(5). Schedules 8 to 11. In Schedule 12, paragraphs 4, 5 and 7(b). In Schedule 13, paragraphs 16, 17 and 18.
1988 c. 48	Copyright, Designs and Patents Act 1988	In Schedule 7 paragraph 26.
1989 c. 26	Finance Act 1989	Section 91(2).

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		Section 92(3) and in subsection (4) the words "the Capital Gains Tax Act 1979 or any other enactment relating to capital gains tax".
		Section 96(3).
		Section 122.
		Section 123(1)(a).
		Section 124 to 141.
		Section 179(1)(a)(vi).
		In Schedule 12, paragraph 6.
		Schedules 14 and 15.
1989 c. 40	Companies Act 1989	In Schedule 18, paragraph 20.
1990 c. 1	Capital Allowances Act 1990	In Schedule 1, paragraphs 3 and 9(1) to (3).
1990 c. 29	Finance Act 1990	Section 28(3).
		Sections 31 to 40.
		Sections 46 and 47.
		Section 54.
		Sections 63 to 65.
		Section 70.
		Section 72.
		Section 81(3) and (6).
		Section 83 to 86.
		Section 127(2).
		In Schedule 6, paragraph 10.
		Schedule 8.
		In Schedule 9, paragraphs 1 and 2.
		In Schedule 10, paragraphs 28 and 29(2) and (3).
		In Schedule 12, paragraph 2(2).
		In Schedule 14, paragraphs 17, 18 and 19(2), (3) and (4).
		In Schedule 18, paragraph 3.
1991 c. 21	Disability Living Allowance and Disability Working Allowance Act 1991	In Schedule 2 paragraph 9.

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1991 c. 31	Finance Act 1991	Section 57(4). Section 67. Section 77(2). Section 78(2), (3), (6) and (7). Sections 83 to 102. In Schedule 6, paragraph 6. In Schedule 7, paragraphs 14 and 15. In Schedule 10, paragraphs 1 and 4. Schedules 16 to 18.
1991 c. 52	Ports Act 1991	Section 18(8)(a).
1992 c. 6	Social Security (Consequential Provisions) Act 1992	In Schedule 2, paragraph 51.

#### STATUTORY INSTRUMENTS

Number	Title	Extent of Repeal
S.I. 1979/1231	Capital Gains Tax (Gilt-edged Securities) (No. 1) Order 1979	The whole Order.
S.I. 1979/1676	Capital Gains Tax (Gilt-edged Securities) (No. 2) Order 1979	The whole Order.
S.I. 1980/507	Capital Gains Tax (Gilt-edged Securities) (No. 1) Order 1980	The whole Order.
S.I. 1980/922	Capital Gains Tax (Gilt-edged Securities) (No. 2) Order 1980	The whole Order.
S.I. 1980/1910	Capital Gains Tax (Gilt-edged Securities) (No. 3) Order 1980	The whole Order.
S.I. 1981/615	Capital Gains Tax (Gilt-edged Securities) (No. 1) Order 1981	The whole Order.
S.I. 1981/1879	Capital Gains Tax (Gilt-edged Securities) (No. 2) Order 1981	The whole Order.



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S.I. 1982/413	Capital Gains Tax (Gilt-edged Securities) (No. 1) Order 1982	The whole Order.
S.I. 1982/1774	Capital Gains Tax (Gilt-edged Securities) (No. 2) Order 1982	The whole Order.
S.I. 1983/1774	Capital Gains Tax (Gilt-edged Securities) Order 1983	The whole Order.
S.I. 1984/1966	Capital Gains Tax (Gilt-edged Securities) Order 1984	The whole Order.
S.I. 1986/12	Capital Gains Tax (Gilt-edged Securities) Order 1986	The whole Order.
S.I. 1987/259	Capital Gains Tax (Gilt-edged Securities) Order 1987	The whole Order.
S.I. 1988/360	Capital Gains Tax (Gilt-edged Securities) Order 1988	The whole Order.
S.I. 1989/944	Capital Gains Tax (Gilt-edged Securities) Order 1989	The whole Order.
S.I. 1991/2678	Capital Gains Tax (Gilt-edged Securities) Order 1991	The whole Order.

TABLE OF DERIVATIONS  
*NOTE: THE FOLLOWING ABBREVIATIONS ARE USED IN THIS TABLE:*

1970	= Income and Corporation Taxes Act 1970 c. 10.
1970(F)	= Finance Act 1970 c. 24.
1973	= Finance Act 1973 c. 51.
HA1974	= Housing Act 1974 c. 44.
1975(2)	= Finance (No. 2) Act 1975 c. 45.
1976	= Finance Act 1976 c. 40.
1977	= Finance Act 1977 c. 36.
1979	= Capital Gains Tax Act 1979 c. 14.
1979(2)	= Finance (No. 2) Act 1979 c. 47.
1980	= Finance Act 1980 c. 48.
1981	= Finance Act 1981 c. 35.
1982	= Finance Act 1982 c. 39.
AJA1982	= Administration of Justice Act 1982 c. 53.

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1983(2)	= Finance (No. 2) Act 1983 c. 49.
LRTA1984	= London Regional Transport Act 1984 c. 32.
1984	= Finance Act 1984 c. 43.
ITA	= Inheritance Tax Act 1984 c. 51.
CCCPA	= Companies Consolidation (Consequential Provisions) Act 1985 c. 9.
1985	= Finance Act 1985 c. 54.
HCPA	= Housing (Consequential Provisions) Act 1985 c. 71.
1986	= Finance Act 1986 c. 41.
PCA	= Parliamentary Constituencies Act 1986 c. 56.
1987	= Finance Act 1987 c. 16.
1987(2)	= Finance (No. 2) Act 1987 c. 51.
ICTA	= Income and Corporation Taxes Act 1988 c. 1.
1988	= Finance Act 1988 c. 39.
CDPA1988	= Copyright, Designs and Patents Act 1988 c. 48.
HA1988	= Housing Act 1988 c. 50.
1989	= Finance Act 1989 c. 26.
CAA	= Capital Allowances Act 1990 c. 1.
1990	= Finance Act 1990 c. 29.
DLA1991	= Disability Living Allowance and Disability Working Allowance Act 1991 c. 21 Sch. 2 §9; Disability Living Allowance and Disability Working Allowance (Northern Ireland Consequential Amendments) Order 1991 Art. 2.
1991	= Finance Act 1991 c. 31.
SSCP	= Security Security (Consequential Provisions) Act 1992 c. 6; Security Security (Consequential Provisions) Act (Northern Ireland) 1992 c. 9.
SI 1988/744	= The Finance (No. 2) Act 1987 (Commencement) Order 1988.
SI 1989/1299	= The Income Tax (Stock Lending) Regulations 1989.
SI 1989/1788	= The Finance Act 1989 (Repeal of Tithe Redemption Enactments) (Appointed Day) Order 1989.

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SI 1991/736 = Capital Gains (Annual Exempt Amount)  
Order 1991.

<b>Provision of Bill</b>	<b>Derivation</b>
1	1979 s. 1.
2(1)	1979 s. 2.
(2)	1979 s. 4(1).
(3)	1979 s. 29(5).
3(1)	1979 s. 5(1); 1980 s. 77(2); 1982 s. 80(1).
(2)-(4)	1979 s. 5(1A), (1B), (1C); 1982 s. 80(2); S.I. 1991/736.
(5), (6)	1979 s. 5(4), (5); 1982 s. 80(1).
(7)	1979 Sch. 1 §4.
(8)	1979 s. 5(6).
4	1988 s. 98.
5	1988 s. 100.
6	1988 s. 102; 1991 Sch. 6 §6.
7	1979 s. 7; 1980 s. 61(2).
8	ICTA s. 345, 834.
9	1979 s. 18(1)-(3).
10(1)	1979 s. 12(1).
(2)	1979 s. 12(1A); 1989 s. 128(2).
(3)	ICTAs. 11(2)(b), 6(4).
(4)	1979 s. 12(2).
(5)	1979 s. 12(2A); 1989 s. 126(2).
(6)	1979 s. 12(3).
11	1979 s. 18(5)-(8); ICTA Sch. 29 §16.
12	1979 s. 14.
13(1)-(9)	1979 s. 15(1)-(9).
(10)	1981 s. 85.
(11)	1979 s. 15(10).
14	1979 s. 16.
15	1979 s. 28(1), (2), 30; 1982 s. 86.
16	1979 s. 29(1)-(4).
17	1979 s. 29A(1), (2); 1981 s. 90.
18	1979 s. 62; 1981 s. 90(3)(a), (b).

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19	1985 s.71(1)-(4), (6), (7).
20	1985 Sch. 21.
21	1979 s. 19(1), (2).
22	1979 s. 20.
23	1979 s. 21.
24	1979 s. 22.
25	1989 s. 127; 1990 Sch. 9 §2.
26	1979 s. 23.
27	1979 s. 24.
28	1979 s. 27.
29	1979 s. 25.
30(1)	1979 s. 26(1); 1989 s. 135(1).
(2)	1979 s. 26(1A); 1989 s. 135(1).
(3)-(7)	1979 s. 26(2)-(6).
(8)	1979 s. 26(7); 1989 s. 135(2).
(9)	1979 s. 26(8); 1989 s. 135(3).
31	1979 s. 26A; 1989 s. 136.
32	1979 s. 26B; 1989 s. 136.
33	1979 s. 26C; 1989 s. 136.
34	1979 s. 26D; 1989 s. 137.
35	1988 s. 96; Sch.8 §1(3); 1989 Sch. 15 §4(2); 1990 s. 70(7)(b), Sch. 12 §2(2); 1979 s. 28(3); 1991 s. 78(7).
36	1988 s. 97.
37(1)-(3)	1979 s. 31(1)-(3); CAA Sch. 1 §3.
(4)	1979 s. 31(4); ICTA Sch. 29 §17.
38	1979 s. 32.
39	1979 s. 33; ICTA Sch. 29 §19.
40	1970 s. 269; 1981 s. 38(3), (4).
41	1979 s. 34; 1988 Sch. 13 §16; CAA Sch. 1 §3.
42	1979 s. 35.
43	1979 s. 36.
44	1979 s. 37.
45	1979 s. 127.
46	1979 s. 38.

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47	1979 s. 39.
48	1979 s. 40(2).
49	1979 s. 41.
50	1979 s. 42.
51	1979 s. 19(4), (5).
52	1979 s. 43.
53	1982 s. 86(2)-(4), (6); 1985 Sch. 19 §1.
54	1982 s. 87; 1985 Sch. 19 §2.
55(1)	1985 s. 68(4).
(2)	1985 s. 68(5); 1988 Sch. 8 §11.
(3)	1985 s. 68(5A); 1988 s. 118.
(4)	1985 s. 68(6).
(5)	1985 s. 68(7), (7A); 1988 s. 118; 1989 Sch. 15 §4; 1990 s. 70(7); 1991 s. 78(6), 99(1).
(6)	1985 s. 68(8).
56(1)	1982 Sch. 13 §1; 1985 Sch. 19 §5(1).
(2)	1982 Sch. 13 §2; 1985 Sch. 19 §5(2)(b).
57	1982 Sch. 13 §4.
58	1979 s. 44.
59	1979 s. 60.
60	1979 s. 46.
61	1979 s. 99; AJA 1982 s. 46(2)(f).
62	1979 s. 49; 1981 s. 90(3)(a).
63	1979 s. 50.
64	1979 s. 47.
65	1979 s. 48.
66	1979 s. 61.
67	1980 s. 79; 1979 s. 56A; 1982 s. 84; 1989 s. 124(3).
68	1979 s. 51.
69	1979 s. 52.
70	1979 s. 53; 1981 s. 86.
71	1979 s. 54; 1981 s. 87.
72	1979 s. 55(1),(3)-(6); 1982 s. 84.
73(1)	1979 s. 56(1); 1981 s. 87.
(2), (3)	1979 s. 56(1A), (1B); 1982 s. 84(2).

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74	1979 s. 56A; 1982 s. 84; 1989 Sch. 14 §6(1).
75	1979 s. 57.
76	1979 s. 58.
77	1988 Sch. 10 §1-4.
78(1), (2)	1988 Sch. 10 §5(1), (2).
(3)	1988 Sch. 10 §5(3); 1991 s. 89(3).
79	1988 Sch. 10 §6-9.
80	1991 s. 83.
81	1991 s. 84.
82	1991 s. 85.
83	1991 s. 86.
84	1991 s. 87.
85(1)	1981 s. 88(1).
(2)-(9)	1991 s. 88(1)-(8).
86(1)-(3)	1991 Sch. 16 §1(1)-(3).
(4)	1991 Sch. 16 §2.
(5)	
87(1), (2)	1981 s. 80(1), (2).
(3)	1980 s. 80(2A); 1991 s. 89(2).
(4)-(7)	1981 s. 80(3)-(6).
(8)	1981 s. 80(6A); 1991 Sch. 18 §1.
(9)	1981 s. 80(7).
(10)	1981 s. 80(1), (8); 1984 s. 70(3).
88	1981 s. 80A; 1991 Sch. 18 §2.
89	1981 s. 81; 1991 Sch. 18 §3.
90	1981 s. 82.
91	1991 Sch. 17 §4.
92(1)	1991 Sch. 17 §2(3).
(2)	1991 Sch. 17 §2(2), (4), (5).
(3)	1991 Sch. 17 §3(1), (2).
(4)-(6)	1991 Sch. 17 §3(3)-(5).
93(1)	1991 Sch. 17 §5(1)(a), (b), (d), 6(1)(a), (b), (d).
(2)	1991 Sch. 17 §5(1)(c), (2), (3).
(3)	1991 Sch. 17 §6(1)(c), (2), (3).

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(4)	1991 Sch. 17 §7.
94	1991 Sch. 17 §8.
95	1991 Sch. 17 §9.
96	1981 s. 82A; 1991 Sch. 18 §4.
97(1)(a)	1981 s. 83(1), (11); 1991 Sch. 17 §1(c), 18 §6(2).
(b)	1981 s. 83(1A); 1991 Sch. 18 §6(3).
(2)-(6)	1981 s. 83(2)-(6); 1990 Sch. 14 §18; 1991 Sch. 18 §6(4), (5).
(7)	1981 s. 83(7); 1984 s. 71; 1991 Sch. 18 §6(5).
(8)-(10)	1981 s. 83(8)-(10); 1991 Sch. 18 §5.
98	1981 s. 84.
99(1)	1979 s. 93.
(2)	1979 s. 92(1)(a), (b); 1987 s. 40(3).
(3)	1979 s. 92(2), (3)(a); 1987 s. 40(4).
100(1)	1980 s. 81(1).
(2)	1979 s. 96.
(3)	1979 s. 92(1)(d).
101	1979 s. 98; 1980 s. 81.
102	1989 s. 140.
103	1990 s. 54.
104(1), (2)	1985 Sch. 19 §8, 9(1), 17(1).
(3)	1979 s. 66(3), (4); 1985 s. 68(9), (10), Sch. 19 §8(1)(c), 9(3).
(4)	1985 Sch. 19 §8(2).
(5)	1985 Sch. 19 §8(3).
(6)	1985 Sch. 19 §10.
105	1979 s. 66(1), (2); 1985 Sch. 19 §17(2).
106	1975(2) s. 58; 1979 Sch. 7.
107(1), (2)	1985 Sch. 19 §16(1), (2).
(3)-(6)	1985 Sch. 19 §18
(7)-(9)	1985 Sch. 19 §19.
108	1982 s. 88; 1985 Sch. 19 §3.
109(1)-(3)	1982 Sch. 13 §6(1), (2), 7(1), 8(1), (2)(a), (3), 9, 10.
(4), (5)	1985 Sch. 19 §6(3), (4).

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(6)	1985 Sch. 19 §7(2), (3).
110(1)-(3)	1985 Sch. 19 §11.
(4)	1985 Sch. 19 §12.
(5)-(9)	1985 Sch. 19 §13.
(10), (11)	1985 Sch. 19 §14.
111	1988 s. 113.
112	1985 Sch. 19 §21(2), (3), 20.
113	1982 Sch. 13 §6, 1985 Sch. 19 §5(5).
114	1985 Sch. 19 §15.
115	1979 s. 67; 1986 s. 59.
116(1)	1984 s. 64(7)
(2)-(4)	1984 Sch. 13 §7.
(5)-(8)	1984 Sch. 13 §8.
(9)	1984 Sch. 13 §9.
(10), (11)	1984 Sch. 13 §10; 1985 s. 67(2)(c); 1989 s. 139; 1990 s. 70(6).
(12)-(14)	1984 Sch. 13 §11.
(15)	1984 Sch. 13 §12; 1990 s. 85.
117(1)	1984 s. 64(2)(b), (c), (2A); 1991 s. 98.
(2)	1984 s. 64(3).
(3)	1984 s. 64(3A)-(3D); 1989 s. 139; 1990 Sch. 10 §28.
(4)-(6)	1984 s. 64(3E)-(3G); 1991 Sch. 10 §1.
(7), (8)	1984 s. 64(4), (5); 1989 Sch. 14 §6(4).
(9)	1984 s. 64(5A)-(5D); 1989 s. 139; 1990 Sch. 10 §28.
(10)	1984 s. 64(6); 1989 s. 139.
(11)(a)	1984 s. 64(8).
(11)(b), (12)	1984 s. 64(9)-(11); 1991 Sch. 10 §1.
(13)	1991 Sch. 10 §1(5).
118	1979 s. 132A; ICTA Sch. 29 §23; 1989 s. 96(3).
119	1979 s. 33A; ICTA Sch. 29 §20.
120(1)	1988 s. 84.
(2)-(7)	1979 s. 32A; ICTA Sch. 29 §18.
121	1979 s. 71.



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122	1979 s. 72
123	1979 s. 73.
124	1979 s. 74.
125	1979 s. 75; 1988 Sch. 8 §7.
126	1979 s. 77; 1982 Sch. 13 §5(3).
127	1979 s. 78.
128(1)	1979 s. 79(1).
(2)	1979 s. 79(1), first and second provisos; 1981 s. 91.
(3), (4)	1979 s. 79(2), (3).
129	1979 s. 80.
130	1979 s. 81.
131	1982 Sch. 13 §5(1), (2).
132	1979 s. 82; 1982 Sch. 13 §5(3).
133	1979 s. 83.
134(1)	1979 s. 84(1).
(2)	1979 s. 84(2), (3).
(3)	1979 s. 84(4); 1985 s. 67(2).
(4)-(6)	1979 s. 84(5)-(7).
135	1979 s. 85; 1982 Sch. 13 §5(3).
136	1979 s. 86.
137	1979 s. 87; 1987(2) Sch. 6 §5.
138	1979 s. 88.
139(1), (2)	1970 s. 267(1), (2); 238(4).
(3)	1970 s. 267(2A); 1990 s. 65(1).
(4)	1970 s. 267(3); 1980 s. 81(2).
(5)-(7)	1970 s. 267(3A)-(3C); 1977 s. 41.
(8)	1987(2) Sch. 6 §2.
(9)	1970 s. 267(4).
140	1970 s. 268A; 1977 s. 42.
141	1979 s. 89; 1981 s. 91(2).
142	1979 s. 90; 1981 s. 90(3).
143(1), (2)	1985 s. 72(1), (2); 1987(2) s. 81(1), (2).
(3), (4)	1985 s. 72(2A), (2B); 1987(2) s. 81(3).
(5), (6)	1985 s. 72(3), (4).

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144(1)-(4)	1979 s. 137(1)-(4); 1987(2) s. 81.
(5)-(9)	1979 s. 137(6)-(10); 1987(2) s. 81.
145	1982 Sch. 13 §7.
146	1979 s. 138; 1980 s. 84(5), (6); 1987(2) s. 81.
147	1979 s. 139.
148	1991 s. 102.
149	1991 Sch. 10 §4.
150	1979 s. 149C; 1985 Sch. 19 §16(3); ICTA Sch. 29 §26; 1990 Sch. 14 §17; 1991 s. 99(2).
151(1), (2)	1979 s. 149D(1), (2); ICTA Sch. 29 §26.
(3)	1979 s. 149D(2A); 1988 s. 116.
152(1), (2)	1979 s. 115(1), (2).
(3), (4)	1979 s. 115(3).
(5)-(8)	1979 s. 115(4)-(7).
(9)	1979 s. 115(7A); 1988 Sch. 8 §9.
(10), (11)	1979 s. 115(8), (9).
153	1979 s. 116.
154(1), (2)	1979 s. 117(1), (2); 1990 s. 40(2).
(3), (4)	1979 s. 117(2A), (3); 1990 s. 40(3), (4).
(5)-(7)	1979 s. 117(4)-(6).
155	1979 s. 118; 1988 s. 112.
156	1979 s. 119.
157	1979 s. 120; 1985 s. 70(9).
158	1979 s. 121.
159	1989 s. 129.
160	1989 s. 133.
161	1979 s. 122.
162	1979 s. 123.
163	1985 s. 69; 1991 s.100.
164	1985 s. 70(1)-(8); 1991 s. 100.
165(1), (2)	1979 s. 126(1), (1A); 1989 Sch. 14 §1.
(3)	1979 s. 126(2); 1985 s. 70(9); 1989 Sch. 14 §1(3).
(4)-(6)	1979 s. 126(3)-(5).

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(7)-(9)	1979 s. 126(6)-(8); 1981 s. 90(3)(a); 1985 s. 70(9).
(10), (11)	1979 s. 126(9), (10); 1989 Sch. 14 §1.
166	1979 s. 126A; 1989 Sch. 14 §2.
167	1979 s. 126B; 1989 Sch. 14 §2.
168	1981 s. 79; 1989 Sch. 14 §6; 1991 s. 92(2).
169	1986 s. 58; 1989 Sch. 14 §6.
170(1)	1970 s. 238(4); 1988 Sch. 14 Part V Note 3
(2)	1970 s. 272(1); 1989 s. 138(1); 1990 s. 70(2).
(3)-(8)	1970 s. 272(1A)-(1F); 1989 s. 138(2); 1990 s. 86.
(9)	1970 s. 272(2); 1987(2) s. 79; CCCPA Sch. 2.
(10), (11)	1970 s. 272(3), (4); 1989 s. 138(3), (4).
(12), (13)	1970 s. 272(5).
(14)	1970 s. 272(6); LRTA 1984 Sch. 6 §7.
171(1)	1970 s. 273(1).
(2)	1970 s. 273(2); 1980 s. 81(4); 1987(2) s. 64(3); 1990 s. 65(2).
(3)	1970 s. 273(2A); 1988 s. 115.
(4)	1970 s. 273(3).
172	1970 s. 273A; 1990 s. 70.
173	1970 s. 274.
174(1)-(3)	1970 s. 275(1), (1A), (1B); 1990 s. 70(3).
(4)	1970 s. 275(2).
(5)	1970 s. 275(3); 1980 s. 81(5).
175(1)	1970 s. 276(1); 1987(2) s. 64(4).
(2)	1970 s. 276(1A); 1987(2) s. 64(4); 1990 s. 65(3).
(3)	1970 s. 276(2).
(4)	1990 s. 65(6).
176	1970 s. 280; CCCPA Sch. 2; 1988 Sch. 8 §6.
177	1970 s. 281; 1990 s. 70(4).
178(1)-(3)	1970 s. 278(1)-(3).
(4)-(6)	1970 s. 278(3B)-(3D); 1989 s. 138(5).
(7)	1970 s. 278(3F); 1989 s. 138(5).
(8)-(10)	1970 s. 278(4)-(6).

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179(1)-(3)	1970 s. 278(1)-(3); 1987(2) Sch. 6 §4(2).
(4)	1970 s. 278(3A); 1987(2) Sch. 6 §4(2).
(5)-(9)	1970 s. 278(3B)-(3F); 1989 s. 138(5).
(10)	1970 s. 278(4).
(11)	1970 s. 278(5); 1987(2) Sch. 6 §4(3).
(12)	1970 s. 278(5A); 1987(2) Sch. 6 §4(4).
(13)	1970 s. 278(6).
180(1), (2)	1970 s. 278(8); 1987(2) s. 95(2); 1989 s. 138(7).
(3)-(7)	1989 s. 138(8)-(12).
181	1970 s. 278A; 1970(F) s. 27.
182	1988 Sch. 11 §1, 2.
183	1988 Sch. 11 §3.
184	1988 Sch. 11 §4, 5, 6; 1990 s. 70(8).
185	1988 s. 105(1)-(5).
186	1988 s. 106.
187	1988 s. 107.
188	1989 s. 132.
189	ICTA s. 346.
190	ICTA s. 347.
191	1989 s. 134.
192	1980 s. 117, Sch. 18 §9, 10, 15, 23.
193	1987(2) s. 80.
194	1988 s. 62.
195	1988 s. 63.
196	1988 s. 64.
197	1984 s. 79.
198	1984 s. 80.
199	1989 s. 131.
200	1990 s. 64.
201(1), (2)	ICTAs. 122(1).
(3)	ICTAs. 122(3).
(4)	ICTAs. 122(8).
202(1), (2)	1970(F) s. 29(5), Sch. 6 §3.
(3), (4)	1970(F) Sch. 6 §4.

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(5), (6)	1970(F) Sch. 6 §5.
(7), (8)	1970(F) Sch. 6 §6.
(9)-(11)	1970(F) Sch. 6 §7.
203	1970(F) s. 29(6), (7), (9), Sch. 6 §8, 9.
204	1979 s. 140, 149A(2).
205	1979 s. 141.
206	1979 s. 142; 1988 s. 101.
207(1)-(3)	1979 s. 142A(1)-(3); ICTA Sch. 29 §24.
(4), (5)	1979 s. 142A(4A), (4B); 1989 s. 91; S.I. 1989/1299.
(6)	1979 s. 142A(4).
208	1985 Sch. 19 §22, 23.
209	1979 s. 142A(5-7); 1989 s. 92.
210	1979 s. 143.
211	1970 s. 267A; 1990 Sch. 9 §1.
212	1990 s. 46; 1991 Sch. 7 §14.
213	1990 s. 47.
214	1990 Sch. 8; 1991 Sch. 7 §15.
215	1979 s. 149A(1); ICTA Sch. 29 §26.
216	1988 Sch. 12 §1, 4.
217	1988 Sch. 12 §5.
218	1970 s. 342; HCPA Sch. 2 §18; 1991 s. 95, 96.
219	1970 s. 342A; HA 1974 s. 11; HCPA Sch. 2 §18; 1991 s. 95, 96.
220	1970 s. 342B; 1984 s. 56(3).
221	1979 s. 123A; ICTA Sch. 29 §22.
222	1979 s. 101; ICTA Sch. 29 §21; 1991 s. 93.
223(1)-(3)	1979 s. 102(1)-(3); 1991 s. 94.
(4)	1980 s. 80(1); 1991 s. 94.
(5), (6)	1979 s. 102(5), (6); 1991 s. 94.
(7)	1979 s. 102(3), (4); 1988 Sch. 8 §8.
224	1979 s. 103.
225	1979 s. 104.
226(1), (2)	1979 s. 105(1), (2); 1988 s. 111(1), (2).
(3)	1988 s. 111(3).

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(4)-(7)	1979 s. 105(3)-(6).
227	1990 s. 31.
228	1990 s. 32.
229	1990 s. 33.
230	1990 s. 34.
231	1990 s. 35.
232	1990 s. 36.
233	1990 s. 37.
234	1990 s. 38.
235	1990 s. 39.
236	1990 s. 40(5)-(8).
237	1979 s. 144.
238	1979 s. 144A; ICTA Sch. 29 §25.
239	1979 s. 149; 1981 s. 90(3); ITA Sch. 8 §11; CCCPA Sch. 2.
240	1979 s. 106, 129.
241(1)	1984 s. 50(1).
(2)	1984 s. 50(2)-(9).
(3)	1984 Sch. 11 §1; 1985 s. 70(10).
(4)-(8)	1984 Sch. 11 §4-7.
242	1979 s. 107; 1984 s. 63; 1986 s. 60.
243	1979 s. 108.
244	1979 s. 109.
245	1979 s. 110.
246	1979 s. 111.
247	1979 s. 111A; 1982 s. 83.
248	1979 s. 111B; 1982 s. 83.
249	1979 s. 112.
250	1979 s. 113; 1988 Sch. 6 §6(5).
251	1979 s. 134.
252	1979 s. 135.
253(1)-(5)	1979 s. 136(1)-(5).
(6)-(8)	1979 s. 136(5A)-(5C); 1990 s. 83.
(9)	1979 s. 136(6); 1990 s. 83.
(10)-(12)	1979 s. 136(7)-(9).

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(13)	1979 s. 136(9A); 1990 s. 83.
(14), (15)	1979 s. 136(10), (11); 1989 Sch. 12 §6.
254	1979 s. 136A; 1990 s. 84.
255	1979 s. 136B; 1990 s. 84.
256	1979 s. 145.
257	1979 s. 146; 1981 s. 90; ITA Sch. 8 §9.
258	1979 s. 147; ITA Sch. 8 §10; 1985 s. 95(1)(b).
259	1979 s. 146A; 1989 s. 125.
260	1979 s. 147A; 1989 Sch. 14 §4.
261	1979 s. 147B; 1989 Sch. 14 §4.
262	1979 s. 128; 1989 s. 123.
263	1979 s. 130.
264	1983(2) s. 7; PCA Sch. 3 §6.
265	1984 s. 126; 1985 s. 96.
266	1976 s. 131.
267	1991 s. 78(1)-(3), (8).
268	1979 s. 131.
269	1979 s. 133.
270	1981 s. 135.
271	1979 s. 149B; ICTA Sch. 29 §26; 1988 Sch. 12 §7(b), Sch. 13 §17; 1990 s. 28(3), 81, Sch. 18 §3; 1991 s. 57(4).
272	1979 s. 150(1)-(4), (6).
273	1979 s. 152.
274	1979 s. 153.
275	1979 s. 18(4); 1984 s. 69; CDDPA 1988 Sch. 7 §26.
276(1)	1973 s. 38(1); ICTA s. 830(1).
(2), (3)	1973 s. 38(2), (3).
(4)-(6)	1973 s. 38(3A)-(3C); 1984 s. 81(2); 1989 s. 130(1).
(7)	1973 s. 38(4); ICTA Sch. 29 §12.
(8)	1973 s. 38(5); 1984 s. 81.
277	1979 s. 10.
278	1979 s. 11.
279(1)-(6)	1979 s. 13; 1991 s. 97.

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(7)	1988 s. 104.
(8)	1991 s. 97.
280	1979 s. 40(1).
281	1979 s. 7A; 1989 Sch. 14 §5.
282	1979 s. 59.
283(1)	1975(2) s. 47(1); 1989 s. 179(1).
(2)	1975(2) s. 47(4).
(3)	1975(2) s. 47(8).
(4), (5)	1975(2) s. 47(11),(12).
284	1979 s. 154.
285	1987(2) s. 73; ICTA s. 841(3).
286	1979 s. 63 ICTA Sch. 29 §15.
287	1979 s. 5(1C), 92(3), 102(5), (7), 137(10), 142A(5), 149D(3), Sch. 2 §1; 1984 s. 64(3F), (12), 126(1), (4); 1985 s. 96(1), Sch. 19 §21(4); 1987(2) s. 73, 81, 95(2), Sch. 6 §2, 4, 5; ICTA s. 828, Sch. 29 §24, 26; 1989 s. 92(6); 1990 s. 46(9); 1991 s. 94, Sch. 10 §1, Sch. 17 §4(8).
288	1979 s. 155; 1979 s. 64; 1984 s. 64; 1985 s. 72(6); ICTA Sch. 29 §27; 1988 Sch. 13 §18; 1989 Sch. 14 §6; 1990 s. 127(2).
289	
290	
291	
Sch. 1 §1(1)	1979 Sch. 1 §5(1); 1980 s. 77(4)(c); 1981 s. 89(2); DLA 1991.
(2)	1979 Sch. 1 §5(1A); 1981 s. 89(3).
(3)	1979 Sch. 1 §5(1B); 1981 s. 89(3); 1982 s. 80(3).
(4)	1979 Sch. 1 §5(1C); 1981 s. 89(3).
(5)	1979 Sch. 1 §5(1D); 1981 s. 89(3); 1982 s. 80(3).
(6)	1979 Sch. 1 §5(2); Mental Health Act 1983 Sch. 4 §49; 1981 s. 89(4); DLA 1991; SSCP.
(7)	1979 Sch. 1 §5(3); 1981 s. 89(5).
2(1)	1979 Sch. 1 §6(1); 1980 s. 78(2).
(2)	1979 Sch. 1 §6(2); 1980 s. 78(3); 1982 s. 80(3)(b), (d).



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(3)	1979 Sch. 1 §6(3); 1980 s. 78(3); 1982 s. 80(3)(e).
(4)	1979 Sch. 1 §6(4); 1980 s. 78(3); 1982 s. 80(3)(c), (d).
(5)	1979 Sch. 1 §6(5); 1980 s. 78(3).
(6)	1979 Sch. 1 §6(6); 1980 s. 78(3); 1982 s. 80(3)(d).
(7)-(9)	1979 Sch. 1 §6(7)-(9); 1980 s. 78(3).
Sch. 2 §1-3	1979 Sch. 5 §1-3; 1982 Sch. 13 §11.
4(1)	
(2)	1979 Sch. 5 §4(1).
(3)-(7)	1979 s. 65.
(8)-(13).	1979 Sch. 5 §4(2)-(7).
5-8	1979 Sch. 5 §5-8.
9-15	1979 Sch. 5 §9, 10.
16	1979 Sch. 5 §11.
17	1979 Sch. 5 §12.
18	1979 Sch. 5 §13; 1982 Sch. 13 §11.
19-23	1979 Sch. 5 §14-18.
Sch. 3 §1	1988 Sch. 8§1; 1989 Sch. 15§4(2); 1990 s. 70(7)(b),Sch. 12§2(2); 1991 s. 78(7).
2	1988 Sch. 8§2.
3	1988 Sch. 8§3.
4	1988 Sch. 8§4; 1989 Sch. 15§3.
5	1988 Sch. 8§5.
6	1988 Sch. 8§10.
7	1988 Sch. 8§12; 1990 s. 63.
8	1988 Sch. 8§13; 1989 Sch. 15§5.
9	1988 Sch. 8§14.
Sch. 4 §1	1988 Sch. 9§1; 1991 s. 101(2).
2	1988 Sch. 9§2; 1991 s. 101(3), (4).
3	1988 Sch. 9§2A; 1991 s. 101(5).
4(1)-(4)	1988 Sch. 9§3; 1989 Sch. 15§2; 1991 s. 101(6)-(8)
(5)	1989 Sch. 15§1.
5-8	1988 Sch. 9§4-7.
9	1988 Sch. 9§8; 1991 s. 101(9).

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Sch. 5	1991 Sch. 16§3-16.
Sch. 6 §1-12	1985 Sch. 20§1-12; 1991 s. 100.
13	1985 Sch. 20§13; 1988 s. 110; 1991 s. 100.
14	1985 Sch. 20§14.
15	1985 Sch. 20§15; 1988 s. 110.
16	1985 Sch. 20§16; 1988 s. 110.
Sch. 7 §1	1979 Sch. 4§1; ITA 1984 Sch. 8§12; 1989 Sch. 14§3(2).
2	1979 Sch. 4§2; 1989 Sch. 14§3(3).
3	1979 Sch. 4§3; ITA 1984 Sch. 8§12; 1989 Sch. 14§3(4).
4	1979 Sch. 4§4; 1989 Sch. 14§3(5).
5, 6	1979 Sch. 4§5, 6; 1989 Sch. 14§3(6).
7	1979 Sch. 4§7; 1989 Sch. 14§3(7).
8	1979 Sch. 4§8; 1985 s. 70(9).
Sch. 8	1979 Sch. 3.
Sch. 9 §1-3	1979 Sch. 2§1-3.
Part II	1979 Sch. 2 Part II together with the securities specified in the Capital Gains Tax (Gilt-edged Securities) Orders 1979-1991 made under paragraph 1 of Schedule 2 to the 1979 Act; Gas Act 1986 (c. 44) s. 50(3).

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