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SCHEDULES

SCHEDULE 5

RENT AND OTHER RECEIPTS FROM LAND

PART III

MINOR AND CONSEQUENTIAL AMENDMENTS

Commencement Information

II Sch. 5 Pts. I-III in force and has effect as mentioned in s. 38.

Taxes Management Act 1970 (c. 9)

- 33 In section 41A of the ^{M1}Taxes Management Act 1970 (determination procedure), for subsection (9)(b) substitute—
- “(b) any amount within section 403(1) of the Taxes Act 1988 (amounts which may be surrendered by way of group relief) other than trading losses.”.

Marginal Citations

M1 1970 c. 9.

Income and Corporation Taxes Act 1988 (c.1)

- 34 In section 87(1) of the Taxes Act 1988 (treatment of taxable premiums in case of land used in connection with trade, profession or vocation), for paragraphs (a) and (b) substitute—
- “(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35, or
- (b) any amount would fall to be so treated but for the operation of section 37(2) or (3);”.
- 35 In section 118 of the Taxes Act 1988 (limited partnerships: restriction on relief)—
- (a) in the opening words of subsection (1), and
- (b) in subsection (2), in the definition of “the aggregate amount”, for “403(1) to (3) and (7)” substitute “403”.
- 36 In section 400 of the Taxes Act 1988 (loss relief: effect of write-off of government investment), in subsection (2) after paragraph (b) insert—

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- “(bb) any losses which—
- (i) under section 392A(2) or 392B are carried forward to the next accounting period, or
 - (ii) under section 392A(3) are treated as management expenses disbursed in the next accounting period;”.
- 37 (1) Section 404 of the Taxes Act 1988 (limitation of group relief in relation to dual resident investment companies) is amended as follows.
- (2) In subsection (2), for paragraph (a) substitute—
- “(a) in which the trading loss or Schedule A loss is incurred; or
 - (aa) in which the non-trading deficit on the company’s loan relationships arises; or”.
- (3) In subsection (6), omit paragraph (c).
- 38 In section 413(6) of the Taxes Act 1988 (interpretation: meaning of company being owned by consortium), for “403(10)” substitute “ 403ZA(3) ”.
- 39 In Chapter I of Part XII of the Taxes Act 1988 (insurance companies), after section 432A insert—

“432AA Schedule A business or overseas property business.

- (1) An insurance company is treated as carrying on separate Schedule A businesses, or overseas property businesses, in accordance with the following rules.
- (2) The exploitation of land held as an asset of the company’s long term business fund is treated as a separate business from the exploitation of land not so held.
- (3) The exploitation of land held as an asset of the company’s overseas life assurance fund is treated as a separate business from the exploitation of other land held as an asset of its long term business fund.
- (4) The exploitation of land held as an asset linked to any of the following categories of business is regarded as a separate business—
 - (a) pension business;
 - (b) life reinsurance business;
 - (c) basic life assurance and general annuity business;
 - (d) long term business other than life assurance business.
- (5) Accordingly, the exploitation of land held as an asset of the company’s long term business fund otherwise than as mentioned in subsection (3) or (4) is treated as a separate business from any other.
- (6) In this section “land” means any estate, interest or rights in or over land.

432AB Losses from Schedule A business or overseas property business.

- (1) This section applies to any loss arising in a Schedule A business or overseas property business.

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- (2) A loss arising from any category of business mentioned in section 432A(2) shall be apportioned under that section in the same way as income.
- (3) So far as a loss is referable to basic life assurance and general annuity business, it shall be treated as if it were an amount of expenses of management under section 76 disbursed for the accounting period in which the loss arose.
- (4) Where a company is treated under section 432AA as carrying on—
- (a) more than one Schedule A business, or
 - (b) more than one overseas property business,
- then, in relation to either kind of business, the reference in subsection (3) above to a loss referable to basic life assurance and general annuity business shall be construed as a reference to any aggregate net loss after setting the losses from those businesses which are so referable against any profits from those businesses that are so referable.
- (5) The provisions of section 392A or 392B (loss relief) do not apply to a loss referable to life assurance business or any category of life assurance business.
- (6) Where a company is treated under section 432AA as carrying on—
- (a) more than one Schedule A business, or
 - (b) more than one overseas property business,
- and, in relation to either kind of business, there are losses and profits referable to business which is not life assurance business, those losses shall be set against those profits before being used under section 392A or 392B.”.
- 40 (1) Section 434E of the Taxes Act 1988 (capital allowances: investment assets held for purposes of life assurance business) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) In this section “investment asset” means an asset which—
- (a) is held by a company for the purposes of its life assurance business otherwise than for the management of that business, and
 - (b) is not let in the course of a Schedule A business or overseas property business.”.

(3) Omit subsection (3).

(4) In subsection (6) for “section 145(3) shall not apply” substitute “ neither section 145(3) nor section 403(1) shall apply ”.

41 In section 441B of the Taxes Act 1988 (treatment of UK land linked to a company’s overseas life assurance business), after subsection (2) insert—

“(2A) For the purposes of subsection (2) above a Schedule A business for the exploitation of any land to which this section applies shall be treated as a separate business from any other such business.”.

42 For section 503 of the Taxes Act 1988 (letting of furnished holiday accommodation treated as a trade) substitute—

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“503 Letting of furnished holiday accommodation treated as a trade for certain purposes.

- (1) For the purposes specified in subsection (2)—
- (a) a Schedule A business which consists in, or so far as it consists in, the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as if it were a trade the profits of which are chargeable to tax under Case I of Schedule D, and
 - (b) all such lettings made by a particular person or partnership or body of persons shall be treated as one trade.

The “commercial letting of furnished holiday accommodation” is defined below in section 504.

- (2) Subsection (1) above applies for the purposes of—
- (a) Chapters I and II of Part X (loss relief for income tax and corporation tax), and
 - (b) sections 623(2)(c), 644(2)(c) and 833(4)(c) (income regarded as relevant earnings for pension purposes or as earned income).
- (3) Chapter I of Part X (loss relief for income tax) as applied by this section has effect with the following adaptations—
- (a) no relief shall be given to an individual under section 381 (relief for losses in early years of trade) in respect of a year of assessment if any of the accommodation in respect of which the trade is carried on in that year was first let by that person as furnished accommodation more than three years before the beginning of that year of assessment;
 - (b) section 384 (restrictions on right of set-off) has effect with the omission of subsections (6) to (8) and the words after paragraph (b) in subsection (10) (which relate to certain losses attributable to capital allowances);
 - (c) section 390 (treatment of interest as loss) has effect as if the reference to a trade the profits of which are chargeable to tax under Case I of Schedule D were a reference to the Schedule A business so far as it is treated as a trade.
- (4) Where there is a letting of accommodation only part of which is holiday accommodation, such apportionments shall be made for the purposes of this section as are just and reasonable.
- (5) Relief shall not be given for the same loss, or the same portion of a loss, both under a provision of Part X as applied by this section and under any other provision of the Tax Acts.”.

43 In section 579 of the Taxes Act 1988, omit subsection (4) and in subsection (5) (twice) for “subsections (2), (3) and (4)” substitute “ subsections (2) and (3) ”.

44 In section 787(3) of the Taxes Act 1988 (restriction of relief for payments of interest) for “section 403(7)” substitute “ section 83(2)(b) of the Finance Act 1996 (claim to treat non-trading deficit as eligible for group relief) ”.

45 In section 832(1) of the Taxes Act 1988 (interpretation), at the appropriate place insert—

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““overseas property business” has the meaning given by section 65A(4) or 70A(4);”.

- 46 In Schedule 26 to the Taxes Act 1988 (allowance of reliefs against amounts apportioned in respect of profits of controlled foreign companies), in paragraph 1(3) (a) for “section 393A(1)” substitute “ section 392A(1) or 393A(1) ”.

Capital Allowances Act 1990 (c.1)

- 47 For section 9 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part I: industrial buildings) substitute—

“9 Manner of making allowances and charges.

- (1) An allowance or charge to which a person is entitled or is liable under this Part is made in taxing that person’s trade.

What is meant by that is explained—

for income tax, in section 140(2), and
for corporation tax, in section 144(2).

- (2) If the interest of that person in the building or structure is subject to a lease at the relevant time, subsection (1) and the provisions referred to in it have effect—

- (a) as if any Schedule A business carried on by that person at any time in the chargeable period for which the allowance or charge is made were the trade in the taxing of which the allowance or charge is to be made;
- (b) where that person is not carrying on such a business at any time in that period, as if he were carrying on such a business and the business were the trade in the taxing of which the allowance or charge is to be made.

- (3) The “relevant time” for the purposes of subsection (2) is—

- (a) in relation to an initial allowance, the time when the expenditure is incurred or any subsequent time before the building or structure is used for any purpose;
- (b) in relation to a writing-down allowance, the end of the chargeable period for which the allowance is made;
- (c) in relation to a balancing allowance or charge, the time immediately before the event giving rise to the allowance or charge.

- (4) This section applies where the building or structure in question is used by a licensee of the person entitled to the relevant interest as if that interest were subject to a lease.”.

- 48 In section 15 of the Capital Allowances Act 1990 (temporary disuse of industrial buildings or structures), omit subsections (2), (2A) and (3).

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49 After that section insert—

“15ZA Temporary disuse: manner of making allowances and charges in certain cases.

- (1) This section applies in certain cases where an allowance or charge falls to be made to or on a person in a period during which the building or structure—
- (a) is temporarily out of use, but
 - (b) is deemed under section 15(1) still to be an industrial building or structure.

- (2) If on the last occasion upon which the building or structure was in use as an industrial building or structure—
- (a) it was in use for the purposes of a trade which has since been permanently discontinued, or
 - (b) the relevant interest in the building or structure was subject to a lease which has since come to an end,

the allowance or charge shall be made under section 9 (manner of making allowances and charges) as if the relevant interest were subject to a lease at the relevant time.

- (3) If in a case where this section applies—
- (a) a balancing charge falls to be made on a person, and
 - (b) when the building or structure was last in use, it was in use as an industrial building or structure for the purposes of a trade which was carried on by that person but has been permanently discontinued,

the same deductions may be made from the amount of the balancing charge as may be made under section 105 of the principal Act (deductions allowed in case of post-cessation receipts) from an amount chargeable to tax under section 103 or 104(1) of that Act.

This does not affect the making of any deduction allowed under any other provision of the Tax Acts.

- (4) References in this section to the permanent discontinuance of a trade do not include an event treated as a permanent discontinuance under section 113 or 337(1) of the principal Act (change in persons carrying on trade; circumstances in which company treated as beginning or ceasing to carry on trade).
- (5) This section applies where the building or structure in question is used by a licensee of the person entitled to the relevant interest as if that interest were subject to a lease.”.

50 Section 15A of the Capital Allowances Act 1990 (balancing charge after cessation of trade) shall cease to have effect.

51 In section 29 of the Capital Allowances Act 1990 (commercial letting of furnished holiday accommodation to be treated as trade for the purposes of Part II)—

- (a) in subsection (1) omit “Subject to subsection (1A) below,”; and

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(b) omit subsection (1A).

52 In sections 30(4) and 31(10) of the Capital Allowances Act 1990 (postponed allowances not regarded as carried forward) for “403(3)” substitute “ 403ZB(2) ”.

53 In section 52 of the Capital Allowances Act 1990 (expenditure incurred by holder of interest in land), in subsection (1)(a) for the words from “either for the purposes” to “in the course of a trade” substitute “ for the purposes of a trade carried on by him ”.

54 (1) Section 53 of the Capital Allowances Act 1990 (expenditure incurred by equipment lessor) is amended as follows.

(2) In subsection (1)(b) omit “or for leasing otherwise than in the course of a trade”.

(3) For subsection (1)(bb) substitute—

“(bb) the equipment lessee is within the charge to tax in the United Kingdom on the profits of the trade for the purposes of which he has entered into that agreement, and”.

(4) In subsection (1B)(a) for ““course of a trade”” substitute “ “by the equipment lessee” ”.

55 (1) Section 61 of the Capital Allowances Act 1990 (machinery and plant on lease) is amended as follows.

(2) Omit subsection (6).

(3) In subsection (7) for “403(3)” substitute “ 403 ”.

56 In section 67 of the Capital Allowances Act 1990 (expenditure on thermal insulation), omit subsections (2), (3) and (3A).

57 In section 73 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part II: machinery and plant)—

(a) in subsection (1), for “subsections (1A) and (2)” substitute “ subsection (2) ”;

(b) omit subsection (1A); and

(c) in subsection (2), omit “and section 67(3)”.

58 For section 92 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part III: dwelling-houses let on assured tenancies), substitute—

“92 Manner of making allowances and charges.

(1) An allowance or charge to which a person is entitled or is liable under this Part is made in taxing that person’s trade.

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What is meant by that is explained—
for income tax, in section 140(2), and
for corporation tax, in section 144(2).

- (2) Subsection (1) (and the provisions referred to in it) apply—
- (a) as if any Schedule A business carried on by that person were the trade in the taxing of which the allowance or charge is to be made; or
 - (b) where that person is not carrying on such a business, as if he were carrying on such a business and that business were the trade in the taxing of which the allowance or charge is to be made.”.

- 59 For section 132 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part V: agricultural buildings, etc.), substitute—

“132 Manner of making allowances and charges.

- (1) An allowance or charge to which a person is entitled or is liable under this Part is made in taxing that person’s trade.

What is meant by that is explained—
for income tax, in section 140(2), and
for corporation tax, in section 144(2).

- (2) In the case of an allowance or charge which falls to be made to a person for a chargeable period in which he is not carrying on a trade, subsection (1) applies—
- (a) as if any Schedule A business carried on by that person at that time were the trade in the taxing of which the allowance or charge is to be made; or
 - (b) where that person is not carrying on such a business at that time, as if he were carrying on such a business and the business were the trade in the taxing of which the allowance or charge is to be made.”.

- 60 In section 159(1A) of the Capital Allowances Act 1990 (capital expenditure and capital sums: references to trade to include Schedule A business), omit the words from “or to any such activities” to the end.

- 61 In section 161 of the Capital Allowances Act 1990 (provisions relating to interpretation and application of that Act), for subsection (2A) substitute—

“(2A) This Act applies in relation to an overseas property business as it applies to a Schedule A business.”.

Taxation of Chargeable Gains Act 1992 (c.12)

- 62 In section 241(3) of the Taxation of Chargeable Gains Act 1992 (commercial letting of furnished holiday accommodation to be treated as trade for certain purposes), for paragraph (a) substitute—

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- “(a) any Schedule A business (within the meaning of the Taxes Act) which consists in the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as a trade, and”.
- 63 (1) Schedule 8 to the Taxation of Chargeable Gains Act 1992 (leases) is amended as follows.
- (2) In paragraph 5 (exclusion of premiums taxed under Schedule A, etc.)—
- (a) in sub-paragraphs (1) and (2), for “income tax has become chargeable under section 34 of the Taxes Act on any amount” substitute “ 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) ”; and
- (b) in sub-paragraph (3), for “income tax has become chargeable under section 36 of the Taxes Act (sale of land with right of re-conveyance) on any amount” substitute “ 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) ”.
- (3) In paragraph 6(2), for the words from “on which tax is paid” onwards substitute “ 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) ”.
- (4) In paragraph 7, for the words from “income tax” to “so chargeable” substitute “ 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 ”.
- (5) For paragraph 7A substitute—
- “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.”.

Finance Act 1996 (c. 8)

- 64 (1) Schedule 8 to the Finance Act 1996 (loan relationships: claims relating to deficits) is amended as follows.
- (2) In paragraph 1 (claim to set off deficit against other profits for the same period), in sub-paragraph (3)(b) for paragraph (i) substitute—
- “(i) under section 392A(1) or 393A(1) of the Taxes Act 1988 (losses set against profits for the same or preceding accounting periods); or”.
- (3) In paragraph 2 (claim to treat deficit as eligible for group relief) for sub-paragraph (2) substitute—
- “(2) Section 403 of the Taxes Act 1988 (amounts which may be surrendered by way of group relief) applies in accordance with section 403ZC(2) of that Act.”.

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