

Status: Point in time view as at 23/01/2003.

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SCHEDULES

SCHEDULE 22

COMPUTATION OF PROFITS: ADJUSTMENT ON CHANGE OF BASIS

PART 3

SPECIAL RULES FOR CERTAIN CASES

No adjustment for certain expenses previously brought into account

- 6 (1) This paragraph applies where as a result of a change of basis expenses brought into account before the change on the old basis would on the new basis be brought into account over more than one period of account after the change.
- (2) In such a case—
- (a) no adjustment shall be made under this Schedule, and
 - (b) the expenses may not be deducted in computing the profits of the trade, profession or vocation for any period of account after the change.

Cases where adjustment not required until asset realised or written off

- 7 (1) This paragraph applies where there is a change of basis resulting from a tax adjustment affecting the calculation of—
- (a) any amount brought into account—
 - (i) in respect of closing trading stock or work in progress in the last period of account before the change of basis, or
 - (ii) in respect of opening trading stock or work in progress in the first period of account on the new basis, or
 - (b) any amount brought into account in respect of depreciation.
- (2) The adjustment required by paragraph 2 in such a case shall be brought into account only when the asset to which it relates is realised or written off.

Change from realisation basis to mark to market

- 8 (1) This paragraph applies where there is a change of basis from—
- (a) not recognising a profit or loss on an asset until the asset is realised, to
 - (b) bringing assets into account in each period of account at a fair value.
- (2) To the extent that in such a case—
- (a) a receipt within item 1 of the First step in paragraph 2 represents the fair value of an asset that is trading stock (within the meaning of section 100 of the Taxes Act 1988), or
 - (b) an expense within item 2 of that step relates to such an asset,

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any resulting adjustment shall not be given effect until the period of account in which the value of the asset in question is realised.

This is subject to any election under paragraph 9.

Election for spreading where paragraph 8 applies

- 9 (1) Where paragraph 8 applies the person who is chargeable to tax in respect of any adjustment charge may elect that the adjustment charge shall be spread over six periods of account in accordance with the following provisions.
- (2) The election must be made—
- (a) by notice in writing,
 - (b) to an officer of the Board,
 - (c) within the time allowed.
- (3) The time allowed is—
- (a) for income tax purposes, up to and including the 31st January following the tax year in which the change of basis occurs;
 - (b) for corporation tax purposes, within twelve months of the end of the first accounting period to which the new basis applies.
- (4) If an election is made, then, in each of the six periods of account beginning with the first period to which the new basis applies an amount equal to one-sixth of the amount of the adjustment charge is treated as arising and chargeable to tax.
- (5) If before the whole of the adjustment charge has been charged to tax the trade, profession or vocation is permanently discontinued, the whole of the amount so far as not previously brought into charge to tax is treated as arising and chargeable to tax immediately before the discontinuance.

Application of paragraphs 8 and 9 in case of transfer of insurance business

- 10 (1) This paragraph applies where—
- (a) an asset to which paragraph 8 or 9 applies is transferred from one insurance company to another in pursuance of a transfer scheme, and
 - (b) immediately after the transfer either—
 - (i) the transferee company is resident in the United Kingdom, or
 - (ii) the asset is held for the purposes of a business carried on by the transferee company in the United Kingdom through a branch or agency.
- (2) The asset shall not be regarded for the purposes of paragraph 8 as having been realised by the transferor by reason of its being transferred in pursuance of the transfer scheme.
- (3) If the transfer is of the entire business of the transferor, the transferee is responsible under paragraph 8 or 9 for bringing into account any amount required to be brought into account after the transfer.
- (4) In this paragraph—
 “insurance company” has the same meaning as in Chapter 2 of Part 12 of the Taxes Act 1988 (see section 431(2) of that Act); and

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“transfer scheme” means—

- (a) a scheme under section 105 of the Financial Services and Markets Act 2000 (c. 8), including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section, or
- (b) a qualifying overseas transfer scheme.

(5) A “qualifying overseas transfer scheme” means—

- (a) so much of a transfer of the whole or part of the business of an overseas life insurance company carried on through a branch or agency in the United Kingdom as takes place in accordance with an authorisation granted outside the United Kingdom for the purposes of Article 11 of the third life insurance directive, or
- (b) so much of a transfer of the whole or part of the business of an insurance company other than an overseas life insurance company as takes place in accordance with an authorisation granted outside the United Kingdom for the purposes of Article 12 of the third non-life insurance directive.

(6) In sub-paragraph (5)—

“overseas life insurance company” has the same meaning as in Chapter 2 of Part 12 of the Taxes Act 1988 (see section 431(2) of that Act);

“the third life insurance directive” means Council Directive 92/96/EEC on the co-ordination of law regulations and administrative provisions relating to direct life assurance and amending Directive 79/267/EEC and 990/96/EEC; and

“the third non-life insurance directive” means Council Directive 92/49/EEC on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC.

Spreading of adjustment charge on ending of exemption for barristers and advocates

- 11 (1) This paragraph applies where an individual makes a change of basis—
- (a) on ceasing to take advantage of the exemption given by section 43 of the Finance Act 1998 (c. 36) (barristers and advocates in early years of practice), or
 - (b) on that exemption coming to an end.
- (2) Where this paragraph applies any adjustment charge is spread over ten tax years, as follows.
- (3) In each of the nine tax years beginning with that in which the whole amount would otherwise be chargeable to tax, an amount equal to whichever is the less of—
- (a) one-tenth of the amount of the adjustment charge, and
 - (b) 10% of the profits of the profession for that tax year,
- is treated as arising and chargeable to tax.

For the purposes of paragraph (b) the profits of the profession means the profits as computed for the purposes of Case II of Schedule D, leaving out of account any allowances or charges under the Capital Allowances Act 2001 (c. 2).

- (4) In the tenth tax year the balance of the adjustment charge is treated as arising and chargeable to tax.

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- (5) If before the whole of the adjustment charge has been charged to tax the profession is permanently discontinued, the preceding provisions of this paragraph continue to apply, but with the omission of the alternative limit in sub-paragraph (3)(b) by reference to profits of the profession.
- (6) This paragraph has effect subject to any election under paragraph 12.

Election to accelerate payment of adjustment charge under paragraph 11

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- (1) A person who under paragraph 11 is chargeable to tax for a tax year on an amount representing part of an adjustment charge may elect that the amount treated as income arising in that tax year should be increased.
 - (2) The election must be made—
 - (a) by notice in writing,
 - (b) to an officer of the Board,
 - (c) on or before the 31st January following the tax year in question.
 - (3) The election must specify the amount to be treated as income arising in the tax year, which may be any amount up to the whole of the adjustment charge so far as not previously charged to tax.
 - (4) Where an election has been made, paragraph 11 applies in relation to any subsequent tax year as if the original amount of the adjustment charge were reduced by the additional amount treated as arising in the year for which the election was made.

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