

## SCHEDULES

### SCHEDULE 1

#### RATES OF CAPITAL GAINS TAX

##### *Amendments of TCGA 1992*

2 For section 4 (rate of capital gains tax) substitute—

##### **“4 Rates of capital gains tax**

- (1) This section makes provision about the rates at which capital gains tax is charged, but is subject to section 169N (rate in case of claim for entrepreneurs' relief).
- (2) Subject to the following provisions of this section, the rate of capital gains tax in respect of gains accruing to a person in a tax year is 18%.
- (3) The rate of capital gains tax in respect of gains accruing to—
  - (a) the trustees of a settlement, or
  - (b) the personal representatives of a deceased person,in a tax year is 28%.
- (4) If income tax is chargeable at the higher rate or the dividend upper rate in respect of any part of the income of an individual for a tax year, the rate of capital gains tax in respect of gains accruing to the individual in the year is 28%.
- (5) If no income tax is chargeable at the higher rate or the dividend upper rate in respect of the income of an individual for a tax year, but the amount on which the individual is chargeable to capital gains tax exceeds the unused part of the individual's basic rate band, the rate of capital gains tax on the excess is 28%.
- (6) For the purposes of subsection (5), gains which are chargeable to capital gains tax at the rate in section 169N(3) are to be treated as forming the lowest part of the amount on which an individual is chargeable to capital gains tax.
- (7) The reference in subsection (5) to the unused part of an individual's basic rate band is a reference to the amount by which the basic rate limit exceeds the individual's Step 3 income.
- (8) For the purposes of this section, “the Step 3 income” of an individual means the individual's net income less allowances deducted at Step 3 of the calculation in section 23 of ITA 2007 for the purpose of calculating the individual's income tax liability.
- (9) Section 989 of ITA 2007 (the definitions) applies for the purposes of this section as it applies for income tax purposes.

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*Status: This is the original version (as it was originally enacted).*

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#### **4A Section 4: special cases**

- (1) Subsection (2) applies if for a tax year—
- (a) a person is entitled, by virtue of section 539 of ITTOIA 2005 (gains from contracts for life insurance etc), to relief by reference to the amount of a deficiency, or
  - (b) the residuary income of an estate is treated, by virtue of section 669(1) and (2) of that Act (reduction in residuary income: inheritance tax on accrued income), as reduced so as to reduce a person's income by any amount for the purposes of extra liability.
- (2) Section 4(7) is to have effect as if the person's Step 3 income for the year were reduced by the amount of the deficiency mentioned in subsection (1) (a) or the amount mentioned in subsection (1)(b) (as the case may be).
- (3) Subsections (4) and (5) apply if, by virtue of section 465 of ITTOIA 2005 (gains from contracts for life insurance etc), a person's total income for a tax year is deemed to include any amount or amounts.
- (4) Section 4(7) is to have effect as if the person's Step 3 income for the year included not the whole of the amount or amounts concerned but only the annual equivalent within the meaning of section 536(1) of that Act or the total annual equivalent within the meaning of section 537 of that Act (as the case may be).
- (5) If—
- (a) relief is given under section 535 of that Act, and
  - (b) the calculation under section 536(1) or 537 of that Act (as the case may be) does not involve the higher rate of income tax,
- section 4(4) and (5) are to have effect as if no income tax were chargeable at the higher rate or the dividend upper rate in respect of the person's income."