



Finance Act 1962

1962 CHAPTER 44

PART II

INCOME TAX AND PROFITS TAX

CHAPTER II

CHARGE ON GAINS FROM ACQUISITION AND DISPOSAL OF ASSETS

10 Charge to income tax and profits tax

- (1) Without prejudice to any other provision of the Income Tax Acts directing income tax to be charged under Schedule D, tax under that Schedule for the year 1962-63 or any subsequent year of assessment shall be charged, subject to and in accordance with the rules contained in this Chapter, in respect of all gains accruing to any person resident and ordinarily resident for the year in the United Kingdom from his acquisition and disposal of any chargeable assets, not being gains which accrue as profits of a trade, profession, vocation, office or employment:

Provided that tax shall not be chargeable by virtue of this section where the acquisition or the disposal occurred before the tenth day of April, nineteen hundred and sixty-two, except in so far as provision to the contrary is made by section fourteen of this Act.

- (2) Except for purposes of section fourteen of this Act, there shall be no acquisition and disposal within the meaning of this Chapter where the disposal occurs more than three years after the acquisition in the case of a disposal of land, or where the disposal occurs more than six months after the acquisition in any other case.
- (3) Tax charged under Schedule D by virtue of this section shall be charged under a new Case VII of that Schedule (in this Chapter referred to as " Case VII "), and—
- (a) the tax with which a person is chargeable under Case VII for any year of assessment shall be computed on the gains accruing to him in that year, after deducting any losses allowable under Case VII against those gains; and

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- (b) subject to subsection (6) below, a gain on the acquisition and disposal of an asset shall for purposes of Case VII be treated as accruing at the time of the disposal or, if that precedes the acquisition, the time of the acquisition ; and
 - (c) the amount or net amount on which tax is charged by this subsection shall be deemed for income tax purposes to be income for the year of assessment of the person chargeable.
- (4) Subject to the provisions of this Chapter the losses allowable under Case VII against gains accruing to a person in any year of assessment shall consist of any losses accruing to him in that or any previous year from any chargeable acquisition and disposal, that is to say, from his acquisition and disposal of assets in such circumstances that a gain accruing from it would have been chargeable under Case VII; and a loss shall be treated as accruing at the same time, and be computed in the same manner, as a gain would be.
- (5) The foregoing provisions of this section with respect to losses allowable under Case VII shall not prejudice any right to relief in respect of other losses from tax chargeable under that Case, or otherwise affect any other provision of the Income Tax Acts with respect to losses; but no deduction shall be made under Case VII of a loss or part of a loss in respect of which relief from tax has already been allowed by such a deduction or otherwise, and where such a deduction is made no relief from tax in respect of the loss or that part of it shall be allowed under any other provision of the Income Tax Acts.
- (6) In the case of individuals resident and ordinarily resident but not domiciled in the United Kingdom, tax under Case VII shall not be charged in respect of gains arising to them out of the United Kingdom except that tax shall be charged on the amounts (if any) received in the United Kingdom in respect of those gains, any such amounts being treated as gains accruing when they are received in the United Kingdom ; and accordingly losses arising out of the United Kingdom to any such individual shall not be allowable under Case VII.
- (7) In computing for the purposes of the profits tax the profits or losses arising from a trade or business, any such gains and losses as are to be included and allowed in computing a person's income for purposes of Case VII shall by virtue of this Chapter (but subject to the enactments adapting income tax principles to the computation) be respectively included as receipts and allowed by way of deduction from gains so included, in so far as they would not otherwise be brought into the computation; and for this purpose—
 - (a) subject to paragraph (c) below, the gains to be included and the losses to be allowed shall be those accruing from the acquisition and disposal of assets where income arising from the assets to the person making the disposal would be brought into account as a receipt in computing the profits including franked investment income of the trade or business, or would be so brought into account apart from subsection (5) of section forty-two of the Finance Act, 1938 (which relates to payments between associated companies);
 - (b) in the case of any chargeable accounting period, whether or not it is a period for which the accounts of the trade or business are made up, the gains to be included shall be those accruing during the period, and the losses to be allowed shall be determined accordingly, and subsection (3) of section (twenty) of the Finance Act, 1937, shall not apply in relation to those gains or losses ;
 - (c) where under section twenty-two of the Finance Act, 1937, the profits or losses of a subsidiary are to be treated as profits or losses of the principal company, the gains or losses to be brought into account by virtue of paragraph (a) above in the case of any company shall be the same as if no notice were in force under that section, but—

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- (i) where gains accrue in a chargeable accounting period of the subsidiary in excess of the losses allowable to the subsidiary under this Chapter against those gains, then in computing the profits arising in the corresponding chargeable accounting period of the principal company from its trade or business the excess shall, for the purpose of deducting losses allowable to the principal company under this Chapter and accruing in that period and for the purposes of sub-paragraph (ii) below, be regarded as if it were a gain to be included by virtue of this Chapter in the computation of those profits; and
- (ii) where losses accrue in a chargeable accounting period of the subsidiary so as to be allowable to the subsidiary under this Chapter against gains so accruing, but exceed the amount (if any) of those gains, the excess may be allowed as a deduction in computing the profits or losses generally of that period :

Provided that this sub-paragraph shall not apply unless in computing the profits arising in the corresponding chargeable accounting period of the principal company from its trade or business gains are to be included by virtue of this Chapter in excess of the losses allowable against those gains, nor shall a greater amount be allowed to any subsidiary or subsidiaries by reference to the period than the amount of that excess.

11 Chargeable assets

- (1) Subject to the provisions of this section, all forms of property, whether situated in the United Kingdom or not, (including options, debts and incorporeal property generally) shall be chargeable assets for the purposes of Case VII, with the exception of tangible movable property; and subsection (2) of section ten of this Act shall apply to an option or other right to acquire or dispose of land as it applies to land.
- (2) Tangible movable property shall be chargeable assets in any of the following cases:—
 - (a) commodities of any description shall be chargeable assets in relation to any acquisition and disposal by a person dealing on a futures market or dealing with or through a person ordinarily engaged in dealing on a futures market;
 - (b) currency of any description shall be chargeable assets, except in relation to an acquisition and disposal by an individual for the personal expenditure outside the United Kingdom of himself or his family or dependants (including expenditure on the provision or maintenance of any residence outside the United Kingdom);
 - (c) tangible movable property of any description shall be chargeable assets in relation to any acquisition and disposal by a person acquiring it with a view to its employment in a trade or business carried on or to be carried on by him, but disposing of it without its being employed in that trade or business.
- (3) Subject to subsection (7) below, the dwelling-house or part of a dwelling-house which is an individual's only or main residence shall not be chargeable assets in relation to any acquisition and disposal of it by him, nor shall land which he has for his own occupation and enjoyment with that residence as its garden or grounds up to an area (inclusive of the site of the dwelling-house) of one acre, or such larger area as the Commissioners concerned may in any particular case determine, on being satisfied that, regard being had to the size and character of the dwelling-house, the larger area is required for the reasonable enjoyment of it (or of the part in question) as a residence.

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In the case where part of the land occupied with a residence is and part is not to be treated under this subsection as chargeable assets, then (up to the permitted area) that part shall be taken not to be chargeable assets which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residence.

- (4) Subject to subsection (7) below, any building or part of a building which a person occupies and uses for the purposes only of a trade, profession or vocation carried on by him (other than a trade of dealing in or developing land, or of providing services for the occupier of land in which that person has an estate or interest) shall not be chargeable assets in relation to any acquisition and disposal of it by him, nor shall any land which he occupies for purposes ancillary to his occupation and use of the building or part of a building; and this subsection—
- (a) shall apply in relation to any permanent or semi-permanent structure in the nature of a building, as it applies in relation to a building ; and
 - (b) shall apply in relation to the discharge of the functions of a public or local authority, and to the occupation of woodlands where the woodlands are managed by the occupier on a commercial basis and with a view to the realisation of profits, as it applies in relation to a trade, profession or vocation.
- (5) Subject to subsection (7) below, fixed plant or machinery which does not form part of a building or of a permanent or semi-permanent structure in the nature of a building, and which a person uses for the purposes only of a trade carried on by him, shall not be chargeable assets in relation to any acquisition or disposal of it by him; and this subsection shall apply in relation to the discharge of the functions of a public or local authority, and to the occupation of woodlands where the woodlands are managed by the occupier on a commercial basis and with a view to the realisation of profits, as it applies in relation to a trade.
- (6) Patent rights (that is to say, the right to do or authorise the doing of anything which would, but for that right, be an infringement of a patent) shall not be chargeable assets, nor shall rights to acquire in the future patent rights as respects any invention in respect of which the patent has not yet been granted.
- (7) Subsection (3), (4) or (5) above shall not apply by reason of a person's use of an asset for a purpose within the subsection, unless his acquisition of it was made for that purpose and not wholly or partly for the purpose of realising a gain from the disposal of it; but where a person acquires land as a site for a building or structure, and disposes of it after the erection of the building or structure, subsection (3) or (4) above shall not be prevented from applying by reason of his not having acquired the land with the building or structure on it.

12 General operation of charge

- (1) Subject to the provisions of this section, any acquisition of an interest or right in or over assets (whether it continues after or ceases on the acquisition), or any disposal of such an interest or right (whether it subsists before or is created by the disposal), shall be deemed for purposes of Case VII to be an acquisition or a disposal of the assets, and (except in so far as the context otherwise requires) the expression " acquire " and the expression " dispose of " shall be construed accordingly.
- (2) For purposes of Case VII, where a contract is made to acquire or dispose of an asset (including an asset not in existence or not ascertained at the time of the contract), the contract shall be deemed to be the acquisition or disposal of the asset (for the

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consideration provided for by the contract), and the conveyance or transfer of an asset or of an interest or right in or over an asset in pursuance of a contract previously made shall not be deemed to be an acquisition or disposal of the asset.

- (3) Subject to subsection (4) below and to the Ninth Schedule to this Act, a person's acquisition of any asset, and the disposal of it to him, shall for purposes of Case VII be deemed to be for a consideration equal to the market value of the asset or of the interest or right in or over it received by him—
- (a) where he acquires the asset otherwise than by way of a bargain made at arm's length, and in particular where he acquires it by way of gift, or by way of distribution from a company in respect of shares in the company; or
 - (b) where he acquires the asset wholly or partly for a consideration that cannot be valued, or in connection with his own or another's loss of office or employment or diminution of emoluments, or otherwise in consideration for or recognition of his or another's services or past services in any office or employment or of any other services rendered or to be rendered by him or another; or
 - (c) where he acquires the asset as trustee for creditors of the person making the disposal.
- (4) Where, on a person's acquisition of an asset, the asset or the interest or right in or over it received by him falls to be taken into account for purposes of tax as a receipt of an income nature (whether as his receipt or another's), or would fall to be so taken into account if he (or, as the case may be, that other) were chargeable to tax in respect of the whole of his income, his acquisition shall for purposes of Case VII be deemed to be for a consideration equal to the amount or value attributed to the asset for that purpose.
- (5) In relation to assets held by a person as nominee for another person, or as trustee for another person absolutely entitled as against the trustee (or for two or more persons jointly so entitled), this Chapter shall apply as if the property were vested in, and the acts of the nominee or trustee in relation to the assets were the acts of, the person or persons for whom he is nominee or trustee (acquisitions from or disposals to him by that person or persons being disregarded accordingly).
- (6) In relation to settled property, the trustees of the settlement shall for purposes of Case VII be treated as being a single and continuing body of persons (distinct from the persons who may from time to time be the trustees), and that body shall be treated as being resident and ordinarily resident in the United Kingdom unless the general administration of the trusts is ordinarily carried on outside the United Kingdom and the trustees or a majority of them for the time being are not resident or not ordinarily resident in the United Kingdom:

Provided that a body corporate carrying on a business which consists of or includes the management of trusts, and acting as trustee of a trust in the course of that business, shall be treated in relation to that trust as not resident in the United Kingdom if the whole of the settled property consists of or derives from property provided by a person not at the time (or, in the case of a trust arising under a testamentary disposition or on an intestacy or partial intestacy, at his death) domiciled, resident or ordinarily resident in the United Kingdom.

For the purposes of this subsection, where part of the property comprised in a settlement is vested in one trustee or set of trustees and part in another (and in particular where settled land within the meaning of the Settled Land Act, 1925, is vested in the tenant for life and investments representing capital money are vested in the trustees of

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the settlement), they shall be treated as together constituting and, in so far as they act separately, as acting on behalf of a single body of trustees.

- (7) Subsection (6) above shall apply in relation to property forming part of the estate of a deceased person and to his personal representatives as it applies in relation to settled property and to trustees of a settlement, but personal representatives shall not be chargeable to tax in respect of an acquisition and disposal by reference to the vesting of the property of the deceased in them.
- (8) A person acquiring assets as legatee shall not be chargeable under Case VII in respect of any acquisition and disposal by reference to that acquisition, except as provided by section fourteen of this Act; nor, in the case of settled property, shall a person be chargeable under Case VII in respect of any acquisition and disposal of a beneficial interest under the settlement.
- (9) The conveyance or transfer by way of security of an asset or of an interest or right in or over it, or transfer of a subsisting interest or right by way of security in or over an asset (including a retransfer on redemption of the security), shall not be treated for purposes of Case VII as involving any acquisition or disposal of the asset; and, without prejudice to the generality of the foregoing, this Chapter shall have effect in relation to any right to money secured on land (including periodical payments issuing out of land, where the right to the payments is not incident to an estate or interest in the land), as it has effect in relation to assets other than land, and not as it has effect in relation to land.
- (10) Where a person entitled to an asset by way of security or to the benefit of a charge or incumbrance on an asset deals with the asset for the purpose of enforcing or giving effect to the security, charge or incumbrance, his dealings with it shall be treated for purposes of Case VII as if they were done through him as nominee by the person entitled to it subject to the security, charge or incumbrance; and this subsection shall apply to the dealings of any person appointed to enforce or give effect to the security, charge or incumbrance as receiver, receiver and manager or judicial factor as it applies to the dealings of the person entitled as aforesaid.
- (11) Except as provided by section thirteen of this Act, a person disposing of land by letting it for a term of less than twenty-one years shall not be chargeable under Case VII in respect of any acquisition and disposal by reference to that disposal, unless the letting is accompanied by another letting or agreement for another letting such that the combined terms amount to twenty-one years or over, or by an agreement to dispose of the land otherwise than by letting it.

13 Computation of gains

- (1) Subject to the provisions of this Chapter the gain accruing to a person from his acquisition and disposal of any asset shall be computed for purposes of Case VII in the like manner as it would fall to be computed for purposes of Case I of Schedule D if the acquisition and disposal (together with anything done by him to or in relation to the asset in connection with the acquisition and disposal or with a view to the disposal) had been an adventure in the nature of trade (but so that no dividend or interest in respect of which tax has been borne by deduction or otherwise shall be brought into the computation as a receipt).
- (2) Subsection (1) above shall not be treated as applying for purposes of Case VII any provision as to the period of computation of profits for purposes of Case I, but the

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gain accruing on any disposal of an asset shall be computed in one sum as from the relevant acquisition (or first relevant acquisition).

(3) Subject to the following subsections, the adventure by reference to which the gain on an acquisition and disposal is to be computed—

- (a) shall not be treated as relating to any assets not included in the disposal or to any interest not so included in assets which are so included, whether or not the assets or interest not so included were or was included in a relevant acquisition of the assets disposed of;
- (b) shall not be treated as relating to assets included in the disposal which either are not chargeable assets or were not included in a relevant acquisition ;
- (c) subject to paragraph (b) above, shall be treated as relating—
 - (i) to all assets included in the same disposal, whether or not included in the same acquisition ; and
 - (ii) to all relevant acquisitions of those assets; and
 - (iii) to the whole interest included in the disposal in any assets to which the adventure relates, whether or not the whole interest was included in any relevant acquisition ;

and all necessary apportionments shall be made accordingly of the consideration for any acquisition or disposal or of any receipts or expenditure (including in particular, in the case of land, apportionments between the interest disposed of and an interest retained of receipts and expenditure in connection with the land).

(4) If in the case of any asset the interest to which the adventure relates does not derive wholly from one or more relevant acquisitions, then the gain shall be computed as if such part of that interest as derives from any other acquisition had been first appropriated to the adventure immediately before the disposal.

(5) If, in the case of land, there is included in the disposal besides the land to which the adventure relates any adjoining or neighbouring land, being chargeable assets and not being land acquired as legatee, so much (if any) of the consideration for the disposal as represents an enhancement due to a relevant acquisition of the first-mentioned land in the value of the adjoining or neighbouring land shall on the apportionment of the consideration be apportioned to the first-mentioned land.

(6) If, in the case of land, the disposal is subject to an interest created by any such letting of the land as is excepted from Case VII by subsection (11) of section twelve of (this Act, and the letting was made by the person disposing of the land and made by him since a relevant acquisition, the adventure shall be treated as extending to that letting to the same extent as if the interest thereby created had been included in the disposal.

(7) An asset shall be treated as having been acquired free of any interest or right by way of security subsisting at the time of any relevant acquisition of it, and as being disposed of free of any such interest or right subsisting at the time of the disposal.

(8) For the purposes of this section—

- (a) " relevant acquisition " means, in relation to any disposal of an asset, an acquisition which with that disposal amounts to an acquisition and disposal within the meaning of this Chapter, except that it does not include an acquisition by reference to which tax is not chargeable, nor an acquisition from which no interest included in the disposal derives;
- (b) an interest included in a disposal shall be treated as deriving from an acquisition if without that acquisition the whole interest could not have been

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so included, but so that the part of that interest which does and the part which does not derive from relevant acquisitions shall be determined as if any interest of temporary duration subsisting at the time of the first relevant acquisition (other than an interest of such a duration as to expire before the time of the disposal) had been of the same duration at the time of the disposal.

14 Disposals of land effected indirectly

- (1) Subject to the provisions of this section, where a person disposes of shares in a company, and immediately before the disposal either—
- (a) the company is or has control of a land-owning company, and is one which is under the control of not more than five persons and in which he has a substantial interest; or
 - (b) the company, or a company of which it has control, has a substantial interest in a land-owning company under the control of not more than five persons, and the company is one of which he has control, or of which he and persons connected with him have control;
- then he shall be chargeable to tax under Case VII by reference to his disposal of the shares, whenever he acquired them, and notwithstanding that he acquired them as legatee.
- (2) Where, but for this section, a person would not be chargeable to tax under Case VII by reference to a disposal of shares in a company, then—
- (a) he shall not be chargeable unless chargeable gains would have accrued to the company, being a land-owning company, or to a land-owning company referred to in paragraph (a) or (b), as the case may be, of subsection (1) above, on the company disposing of its land at market value at the time of his disposal and any such land-owning company disposing likewise of the land of that company; and
 - (b) he shall not, if a gain accrues to him on that disposal, be chargeable by reference to it to tax on an amount greater than the amount of the chargeable gains which would have so accrued, or such part of that amount as is attributable to the shares disposed of by him, but if a loss accrues to him on the disposal, it shall not be allowable under Case VII.
- (3) For the purposes of this section, "chargeable gains" means gains chargeable to tax under Case VII, but in calculating the chargeable gains that would have accrued to a company on the disposal of its land there shall be made the like deductions as would have been made in charging that tax for the losses that would have so accrued and, so far as they could not be deducted from chargeable gains previously accruing to the company, for losses previously accruing to it:

Provided that in the application of this section to a disposal of shares acquired as legatee on a death a company shall be treated as not chargeable to tax under Case VII by reference to any acquisition of land made before the death.

- (4) Where in the case of a company any amount deductible under subsection (3) above in respect of losses cannot be deducted under that subsection because no gains or insufficient gains would have accrued to the company, the amount of the chargeable gains attributable to shares in the principal company shall be reduced by the amount that cannot be deducted or, if the company is not the principal company, by such part of that amount as is attributable to any shares held by the principal company.

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In this subsection " principal company ", in relation to any disposal of shares in a company, means that company.

- (5) The part attributable to any shares in a company of the amount of any chargeable gains, or of any amount deductible in respect of losses, shall be the sum which that amount would add to or take from the distributions made in respect of those shares in a winding-up of the company if the amount represented assets of the company or, in the case of an amount deductible in respect of losses, a liability of the company, and if apart from that amount the assets of the company were enough, and no more than enough, to ensure the satisfaction of its liabilities (including the return of share capital); and the part of any such amount which is directly or indirectly attributable under this subsection to shares held by a company shall (so far as is necessary for the determination of any question as to the tax chargeable) be apportioned by the like method between the shares in that company to arrive at the part attributable to any of those shares.
- (6) In this section " land-owning company " means a company not carrying on a trade of dealing in or developing land, but entitled to land, being chargeable assets, to a value equal to or exceeding one-fifth of the net value of all its assets (that is to say, their value less the value of the debts and liabilities of the company); and for this purpose the value of the said land shall be taken to be the value of the company's interest free of any liability charged thereon, and to include the value of interests which the company has unconditionally contracted to acquire, but not that of interests which the company has unconditionally contracted to dispose of.

For the purposes of this subsection " value " in relation to a company's land means market value, and the net value of a company's assets is the net value they would have on a sale in the open market of the company's business as a going concern.
- (7) For the purposes of this section a person shall be deemed to have a substantial interest in a company if one-tenth or more in market value of the issued shares in the company is held by him or is held partly by him and partly by persons connected with him; and the persons to be treated as connected with one another are those specified in paragraph 20 of the Ninth Schedule to this Act.
- (8) In this section " share ", in relation to a company not limited by shares (whether or not it has a share capital), shall include the interest of a member of the company as such, whatever the form of that interest, and this section shall apply in relation to any disposal of rights attached to or forming part of a share as if the rights included in the, disposal and those not included were separate shares.

15 Charities, superannuation funds, and other special cases

- (1) There shall be exempt from tax chargeable under Case VII any gain accruing to a charity, or to any such Association as is mentioned in section four hundred and forty-nine of the Income Tax Act, 1952, from its acquisition and disposal of any assets.

In this subsection " charity " means any body of persons or trust established for charitable purposes only.

- (2) There shall be exempt from tax chargeable under Case VII any gain accruing to a person from his acquisition and disposal of investments or deposits held by him as part of a fund approved under section three hundred and seventy-nine of the Income Tax Act, 1952, but so that where part only of a fund is approved under that section

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the gain shall be exempt to the same extent only as income derived from the assets would be exempt under that section.

- (3) There shall be exempt from tax chargeable under Case VII any gain accruing to a person from his acquisition and disposal of assets held by him as part of a fund of which income is exempt from tax under any of the following enactments (which relate to superannuation and similar funds), that is to say.—
- (a) in the Income Tax Act, 1952, sections three hundred and eighty-one, three hundred and eighty-two and three hundred and eighty-five;
 - (b) in the Finance Act, 1956, subsection (5) of section twenty-two and subsection (3) of section forty;
 - (c) in the Finance Act, 1961, section twenty-one.
- (4) There shall be exempt from tax chargeable under Case VII any gain accruing to the United Kingdom Atomic Energy Authority from its acquisition and disposal of any assets, or accruing to any other person from his acquisition and disposal of investments or deposits held by him for the purposes of any pension scheme provided and maintained by that Authority.
- (5) There shall be exempt from tax chargeable under Case VII any gains which accrue to an assurance company (within the meaning of Part XX of the Income Tax Act, 1952) from its acquisition and disposal of investments of its life assurance fund, but which by reason of the mutual nature of the company's business or part of it do not accrue as profits of a trade.
- (6) Any gain accruing to a person from his acquisition and disposal of any assets as trustee or assignee in bankruptcy shall be exempt from tax chargeable under Case VII.
- (7) Where assets of the British Transport Commission are, by virtue of or in accordance with any Act of the present Session providing for the dissolution of that Commission, transferred to any body corporate established by that Act, then—
- (a) the Commission shall not be chargeable to tax under Case VII by reference to the transfer in respect of its acquisition and disposal of any asset included in the transfer; and
 - (b) the body corporate shall be treated as if the Commission's acquisition of the asset had been its acquisition of it (paragraph 18 of the Ninth Schedule to this Act applying for the purposes of this paragraph as it applies for the purposes of that Schedule).

16 Supplementary

- (1) For the purposes of this Chapter—
- " company " includes any body corporate ;
- " control " has the meaning assigned to it by section three hundred and thirty-three of the Income Tax Act, 1952, but any reference to a company being under the control of not more than five persons shall be construed in accordance with subsections (2) and (3) of section two hundred and fifty-six of that Act;
- " legatee " includes any person taking under a testamentary disposition or on an intestacy or partial intestacy, whether he takes beneficially or as trustee, and a donatio mortis causa shall be treated as a testamentary disposition and shall not be treated as a gift;

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" market value " in relation to any property means the price which that property might reasonably be expected to fetch on a sale in the open market;

" personal representatives " has the meaning assigned to it by subsection (4) of section four hundred and twenty-three of the Income Tax Act, 1952 ;

" settled property " means, subject to subsection (4) below, any property held in trust other than property to which subsection (5) of section twelve of this Act applies ;

" shares " includes stock, and shares or debentures comprised in any letter of allotment or similar instrument shall be treated as issued unless the right to the shares or debentures thereby conferred remains provisional until accepted and there has been no acceptance.

- (2) For the purposes of subsection (6) of section ten of this Act, there shall be treated as received in the United Kingdom in respect of any gain all amounts paid, used or enjoyed in or in any manner or form transmitted or brought to the United Kingdom, and section twenty-four of the Finance Act, 1953 (under which income applied outside the United Kingdom in payment of debts is, in certain cases, treated as received in the United Kingdom), shall apply as it would apply for purposes of subsection (3) of section one hundred and thirty-two of the Income Tax Act, 1952, if the gain were income arising from possessions out of the United Kingdom.
- (3) Where two or more persons carry on a business in partnership, gains accruing to them on the disposal of any partnership assets shall, in Scotland as well as elsewhere in the United Kingdom, be assessed and charged on them under Case VII separately, and any partnership dealings shall be treated as dealings by the partners and not by the firm as such; but any statement of the profits or gains of a partnership delivered under section one hundred and forty-four of the Income Tax Act, 1952, shall include, with respect to any disposal of partnership property during the year of assessment to which the statement relates, the like particulars as if the partnership were chargeable under Case VII in respect of any gain accruing on the disposal.
- (4) This Chapter shall apply in relation to any unit trust scheme (as defined in subsection (1) of section twenty-six of the Prevention of Fraud (Investments) Act, 1958), as if the trustees were a company whose business consists mainly in the making of investments, and as if the rights of the unit holders were shares in the company, and in the case of an authorised unit trust scheme within the meaning of section sixty-nine of the Finance Act, 1960, as if the company were resident and ordinarily resident in the United Kingdom ; but the said section sixty-nine shall not apply so as to treat income chargeable to tax under Case VII as income of unit holders (unless included in the distribution for any distribution period).
- (5) An underwriting member of Lloyd's or of an approved association of underwriters shall be treated for the purposes of this Chapter (and in particular of subsection (5) of section twelve) as absolutely entitled as against the trustees to the investments of his premiums trust fund, his special reserve fund (if any) and any other trust fund required or authorised by the rules of Lloyd's or the association in question, or required by the underwriting agent through whom his business or any part of it is carried on, to be kept in connection with the business; but—
 - (a) the trustees of any such fund shall (subject to subsection (6) below) be assessed and charged to income tax at the standard rate as if this subsection had not been passed, and may, notwithstanding anything in any enactment or in the trusts of the fund, out of any gain accruing from the acquisition and disposal of an investment of the fund make good to the underwriting member

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any increase in the surtax or profits tax borne by him which is attributable to that gain ; and

- (b) in paragraph (a) of sub-paragraph (3) of paragraph 6 of the Twenty-first Schedule to the Income Tax Act, 1952 (which relates to the computation of the profits of an underwriter's business for the purpose of regulating payments into and out of his special reserve fund), the reference to income arising from the investments forming part of those funds shall include the amount of the gains chargeable to tax under Case VII which accrue in the underwriting year in question from the acquisition and disposal of any such investments, after deducting from those gains losses accruing before the end of that year from any chargeable acquisition and disposal of any such investments so far as those losses are not under this paragraph deductible from gains accruing in a previous underwriting year.

In this subsection expressions used in section four hundred and eighty of the Income Tax Act, 1952, or in the Twenty-first Schedule to that Act have the same meanings as they have for purposes of that section or Schedule.

- (6) The assessment to be made on the trustees of a fund by virtue of paragraph (a) of subsection (5) above for any year of assessment shall not take account of losses accruing in any previous year of assessment, and if for that or any other reason the tax paid on behalf of an underwriting member for any year of assessment by virtue of assessments so made exceeds the tax for which he is liable, the excess shall, on a claim being made by him to the surveyor, be repaid by the Commissioners of Inland Revenue:

Provided that if the surveyor objects to a claim for a deduction on account of losses allowable under Case VII, the claim shall be heard and determined by the Commissioners concerned in like manner as if it were an appeal against an assessment under Case VII, and the provisions of the Income Tax Act, 1952, relating to the statement of a case for the opinion of the High Court on a point of law shall apply.

- (7) Where it appears to the Commissioners of Inland Revenue that a person is or may be chargeable to tax under Case VII in respect of his acquisition and disposal of assets, they may by notice in writing served on any person require him, within such time not less than twenty-eight days as may be specified in the notice.—
- (a) to state whether he has acted on behalf of the first-mentioned person in connection with any acquisition or disposal of assets by that person ;
- (b) if so, to furnish information in his possession with respect to the acquisition or disposal, being information as to—
- (i) the assets comprised in the acquisition or disposal and the consideration for the acquisition or disposal; and
- (ii) the date and manner of the acquisition or disposal, including any condition to which it was subject and the satisfaction or otherwise of any such condition ;

and Part III of the Finance Act, 1960 (which relates to penalties), shall have effect as if this subsection were among the provisions specified in the second column of the Sixth Schedule to that Act.

- (8) The rules contained in the Ninth Schedule to this Act shall have effect with respect to the operation of Case VII in relation to the matters there dealt with, and with respect to matters arising out of the charge to tax under this Chapter, and the foregoing sections of this Chapter shall have effect subject to the rules so contained; and the enactments

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mentioned in the first column in the Tenth Schedule to this Act shall, for the purpose of adapting or applying them in relation to the provisions of this Chapter, have effect subject to and in accordance with the provision made in respect thereto in the second column in that Schedule.