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## SCHEDULES.

### SCHEDULE 14

Section 33.

#### CHARGEABLE GAINS : LAND IN GREAT BRITAIN

##### *Definition of current use value*

- 1 (1) For the purposes of the principal section and this Schedule, the current use value of land shall be ascertained in accordance with this paragraph, and in this paragraph the time as at which current use value is to be ascertained is referred to as " the relevant time ".
- (2) It shall be assumed that planning permission—
- (a) would be granted for any development of the land which does not constitute material development, but
  - (b) would not be granted for any development of the land which constitutes material development.
- (3) No account shall be taken of any planning permission in force at the relevant time, in so far as it would authorise the carrying out of any project of material development of the land to be begun after that time (but account shall be taken of any planning permission in force at the relevant time in so far as it would authorise the carrying out of any project of material development of the land begun but not completed at the relevant time).
- (4) The following provisions in or made under Schedule 6 to the Land Commission Act 1967 shall apply, subject to any necessary modifications, for the purposes of this paragraph—
- (a) sub-paragraphs (1) and (2) of paragraph 4 (general principle of valuation, and disregard of charges on land),
  - (b) sub-paragraphs (3), (4) and (5) of paragraph 7 (minor provisions relating to planning permission, and exclusion of depreciation of other land),
  - (c) any regulations in force at the relevant time under paragraph 11 (extension of categories of material development),
- but in ascertaining the current use value of land disposed of to an authority possessing compulsory purchase powers sub-paragraphs (1), (2) and (4) of paragraph 4 of Schedule 9 to the Land Commission Act 1967 shall apply with any necessary modifications.
- (5) The provisions of the Land Commission Act 1967 applied by this paragraph shall have effect for the purposes of this paragraph notwithstanding that at the relevant time they had not come into force for the purposes of that Act, and the Betterment Levy (Planning Assumptions) Regulations 1967 and the Betterment Levy (Planning Assumptions) (Scotland) Regulations 1967 made under paragraph 11 of Schedule 6 to the Land Commission Act 1967 shall have effect for those purposes as if they had come into force on 6th April 1965.

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*Adjustment for current use value reflecting new development*

- 2 (1) Where on or after 6th April 1967 a project of material development is begun and in accordance with paragraph 1(3) above account is to be taken of the relevant planning permission so as to increase the current use value of any land, then in computing a gain accruing on any subsequent disposal by the owner of the land—
- (a) the owner of the land shall be deemed at the time when the project of material development was begun to have incurred expenditure in respect of that land of an amount equal to that increase in current use value, being expenditure allowable as a deduction under paragraph 4(1)(b) of Schedule 6 to the Finance Act 1965, and
  - (b) the proviso to subsection (1) of the principal section shall not have effect.
- (2) If the planning permission so taken into account affects part only of the land, the expenditure shall be deemed to have been incurred exclusively in respect of that part.

*Restrictions on deductions allowable in computing gains*

- 3 (1) In applying paragraph 4(1)(b) of Schedule 6 to the Finance Act 1965 to any expenditure in computing a gain accruing on a disposal to which subsection (1) of the principal section applies the current use value of the land at the time of the disposal shall be compared with what that current use value would have been if the expenditure had not been incurred and—
- (a) if the current use value of the land would not have been less if the expenditure had not been incurred, the whole of that expenditure shall be excluded, and
  - (b) if it would have been less, but the amount of the expenditure exceeds the difference, the excess shall not be allowable as a deduction in making the computation.
- (2) If on or after 6th April 1967 there has been an increase in the current use value of any land as described in paragraph 2(1) of this Schedule sub-paragraph (1) above shall apply as respects expenditure incurred before that increase by reference to the current use value of the land at a time immediately before the increase, and by reference to what the current use value of the land would have been at that time if the expenditure had not been incurred.

*Expenses of valuation*

- 4 In paragraph 4(2)(b) of Schedule 6 to the Finance Act 1965 (expenses of ascertaining market value) the reference to market value shall include a reference to current use value, but any costs falling to be allowed under paragraph 19 of Schedule 6 to the Land Commission Act 1967 shall not also be allowed under the said paragraph 4.

References in this paragraph to the said paragraph 4 are references to that paragraph as extended by paragraph 5 of Schedule 10 to the Finance Act 1966 (expenses incurred by personal representatives).

*Part disposals*

- 5 (1) In applying paragraph 7(2)(b) of Schedule 6 to the Finance Act 1965 (apportionment of expenditure by reference to market value of what is undisposed of) to the computation of a gain accruing on a disposal to which subsection (1) of the principal

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section applies current use value shall be substituted for market value in that paragraph.

- (2) Where subsection (1) of the principal section applies to a part disposal—
- (a) if what is acquired from the person making the disposal is land as defined in this Schedule, the reference in subsection (1)(b) of the principal section to the current use value of the land is a reference to the current use value of the land which is so acquired,
  - (b) if nothing is so acquired or if what is so acquired is not land as defined in this Schedule, subsection (1)(b) of the principal section shall not apply, and subject to the following provisions of this Schedule, no adjustment shall be made to the amount of the consideration for the part disposal.
- (3) Where subsection (1) of the principal section applies to a part disposal of any land, then in computing a gain accruing on any subsequent disposal by the owner of the land of the remainder of that land, the proviso to subsection (1) of the principal section shall not have effect.
- (4) The amount of the consideration for a part disposal which is or derives from a chargeable act or event within section 33, section 34 or subsection (3) or (5) of section 35 of the Land Commission Act 1967 (Cases D, E and part of Case F) shall be the amount, if any, by which the current use value (called V(1)) of the land out of which the part disposal is made at a time immediately before the part disposal exceeds the current use value (called V(2)) of that land after the part disposal, and accordingly the apportionment under paragraph 7 of Schedule 6 to the Finance Act 1965 shall be made by attributing the fraction
- $$\frac{V(1) - V(2)}{V(1)}$$
- of the apportionable expenditure to what is disposed of.
- (5) In ascertaining in accordance with paragraph 13(1)(c) of Schedule 6 to the Finance Act 1965 (compensation and insurance money) whether the amount of a capital sum derived from land, on a disposal to which subsection (1) of the principal section would apply, is small as compared with the value of the land, its value shall be its current use value.
- (6) Where under paragraph 4 of Schedule 10 to the Finance Act 1966 (part disposal on compulsory acquisition) a transfer is not to be treated as a disposal and, but for that, subsection (1) of the principal section would have applied to the disposal, for references in that paragraph to the amount of the consideration for the transfer, or to the market value of the land transferred, there shall be substituted references to the current use value of the land transferred, and for the reference in that paragraph to the market value of the holding before the transfer there shall be substituted a reference to its current use value at that time.
- (7) Notwithstanding section 45(5) of the Finance Act 1965 (compensation and insurance money: disposal to be treated as made when the money is received), the time when a disposal to which this paragraph applies is made shall for the purposes of—
- (a) comparing under sub-paragraph (4) above current use value before and after a part disposal,
  - (b) ascertaining whether, for the purposes of subsection (1) of the principal section or this Schedule a part disposal falls before 6th April 1967, or later, and

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(c) ascertaining whether the proviso to subsection (1) of the principal section applies,

be the time when the value of the land is first affected by the event giving rise to, or constituting, the disposal.

#### *Leases*

6 (1) Without prejudice to paragraph 2(2) of Schedule 8 to the Finance Act 1965, or any other provision in Part III of that Act, the current use value of a lease (or of any land subject to a lease) is to be ascertained without regard to any premium due under the lease or any sublease, but with regard to all other rights under the lease (and, for the current use value of a lease subject to a sublease, under that sublease); and where under the preceding provisions a lease would have a negative value, the current use value of the lease shall be zero.

(2) If a lease is granted out of any land after 5th April 1967 then in computing any gain accruing to the person granting the lease on any disposal of the land at a time after the grant of the lease, but while it subsists, the current use value of the land shall not exceed what its current use value would have been immediately after the grant of the lease if it had not been subject to the lease:

Provided that if any of the enactments mentioned in paragraph 8 of this Schedule (enactments making an adjustment to secure that neither a gain or loss accrues) is applicable by way of adjustment of the gain computed in accordance with this sub-paragraph, this sub-paragraph shall also apply to any disposal of the land by the transferee effected while the lease subsists, and so on if any of those enactments is so applicable on the disposal by that transferee.

(3) Where there is a part disposal of a lease which is a wasting asset by way of the grant of a sublease then for the purpose of apportioning the expenditure attributable to the lease under paragraph 4(1)(a) and 4(1)(b) of Schedule 6 to the Finance Act 1965 the current use value of the sublease (called V (A)) shall be compared with what its current use value (called V(B)) would be if the rent payable under the sublease were the same as the rent payable under the lease, and out of each item of the expenditure there shall be apportioned to what is disposed of—

(a) if V(A) is not less than V(B), the fraction which, under paragraph 1(3) of Schedule 8 to the Finance Act 1965 is to be written off over the period which is the duration of the sublease, and

(b) if V (A) is less than V (B), the said fraction multiplied by

$$\frac{V (A)}{V (B)}$$

and if the sublease is a sublease of part only of the land comprised in the lease this sub-paragraph shall apply only in relation to a proportion of the said expenditure which is the same as the proportion which the current use value of the land comprised in the sublease bears to the current use 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.

This sub-paragraph has effect instead of paragraph 7 of Schedule 6 to the Finance Act 1965, and instead of paragraph 4 of Schedule 8 to that Act.

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*Substitution of current use value for market value*

- 7
- (1) Subsection (1) of the principal section shall apply notwithstanding the provisions of section 22(4) or section 24(1) of the Finance Act 1965 or of any other enactment under which a person is to be treated as acquiring or disposing of land for a consideration equal to its market value (but not so as to prevent the other party to any transaction being treated as disposing of or acquiring land for a consideration equal to its market value unless subsection (1) of the principal section also applies to the disposal by that other party).
  - (2) Subsection (1) of the principal section shall not affect the value to be placed on land as constituting the consideration for the disposal of some other asset, and this sub-paragraph applies in particular—
    - (a) where an asset is disposed of, and the consideration consists of or includes land, but without prejudice to the application of the principal section to the gain accruing on that disposal of the land, or its disposal by the person acquiring it,
    - (b) where a shareholder acquires land by way of a capital distribution constituting a disposal or part disposal of his shares, but without prejudice to the application of the principal section to the disposal of the land by the company, and to the shareholder's disposal of the land,
    - (c) where, under paragraph 13(2) of Schedule 7 to the Finance Act 1965, a purchaser of an interest in settled property is treated as disposing of his interest and the consideration consists wholly or partly of land forming part of the settled property, but without prejudice to the application of the principal section to the disposal of the land by the trustee, and to any subsequent disposal of the land by the purchaser of the interest.
  - (3) Without prejudice to sub-paragraph (2) above, subsection (1) of the principal section shall not affect the value to be placed on land acquired in satisfaction of a debt as constituting the consideration for disposal of the debt, nor the limitation on that value by reference to market value in paragraph 11(3) of Schedule 7 to the Finance Act 1965, but without prejudice to the application of the principal section to the gain accruing on the disposal of the land by the debtor, and to any subsequent disposal of the land by the creditor ; and where the principal section applies to a subsequent disposal by the creditor (and he is the original creditor) the gain accruing on the disposal shall not be reduced under the said paragraph 11(3).
  - (4) In paragraphs (d) and (e) of paragraph 2(1) of Schedule 10 to the Finance Act 1965 (jurisdiction in questions of market value and disclosure of information about market value) references to market value shall, in relation to land, include references to current use value ; and any regulations made under the said paragraph (d) or (e) before the passing of this Act shall, except where the context otherwise requires, be construed accordingly.

*Carry forward of gain or loss*

- 8
- The provisions of the principal section shall have effect subject to, and be operated before the operation of—
- (a) paragraph 20(1) of Schedule 7 to the Finance Act 1965 (husband and wife),
  - (b) paragraph 2(1) of Schedule 13 to that Act (transfers within group of companies), and

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- (c) without prejudice to the provisions of this Schedule relating to section 33 of the Finance Act 1965, any other enactment making an adjustment to secure that neither a gain nor a loss accrues on a disposal.

*Replacement of business assets*

- 9 (1) Sub-paragraphs (2), (3) and (4) below shall apply in determining under subsection (1) or subsection (2) of section 33 of the Finance Act 1965 whether all or part of the consideration for a disposal is applied in acquiring other assets.
- (2) The principal section shall not apply and, accordingly, the amount of the consideration for the disposal of land shall not be restricted by virtue of that section to the current use value of the land.
- (3) Any part of the consideration which is applied in meeting betterment levy payable on the disposal shall be left out of account.
- (4) If part of the consideration is applied as described in subsection (1) of the said section 33 in acquiring land any further part of the consideration which is applied in meeting betterment levy payable in respect of material development of that land shall be treated as having been applied in acquiring that land.
- (5) Without prejudice to subsection (11) of the said section 33, the provisions of the principal section and this Schedule shall be applied in fixing the amount of the consideration for the disposal of, or of the interest in, the old assets, or for acquiring, or acquiring the interest in, the new assets, and in fixing the amount of the gain accruing on the disposal, before section 33 is applied, and accordingly the adjustments to be made under paragraphs (a) and (b) of subsection (1), and paragraphs (a) and (b) of subsection (2), of the said section 33 are adjustments of the amount of consideration or gain as computed, where relevant, in accordance with the principal section and this Schedule.

*Transfer of business on retirement*

- 10 (1) Section 34(3)(b) of the Finance Act 1965 (relief by reference to value of chargeable business assets of a family company transferred on retirement), and paragraph 2(2) of Schedule 10 to the Finance Act 1966 (restriction of relief on dissolution of family company where chargeable business assets are distributed to shareholders) shall have effect subject to the provisions of this paragraph.
- (2) For the purposes of the said enactments, as they apply on the disposal of land or of any other assets, the value of any chargeable business assets consisting of land shall be the current use value of that land.

*Transfer of business to a company*

- 11 Where by virtue of paragraph 8(2) of Schedule 7 to the Finance Act 1965 a gain accruing on a disposal of land is not a chargeable gain and, but for that, subsection (1) of the principal section would apply to the disposal, the transferor shall be treated, notwithstanding anything in the said paragraph 8(2), as if the shares acquired by the transferor and representing consideration for the land transferred were acquired by him for a consideration equal to the market value of the land at the time of the transfer reduced by the amount of the chargeable gain which, but for the said paragraph 8(2), would have accrued to him on the disposal (or as the

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case may be increased by the amount of the allowable loss which would have so accrued), and except as provided by the preceding provisions of this paragraph, the principal section and this Schedule shall not apply to any disposal of the shares.

*Appropriations to and from stock-in-trade*

- 12 (1) The principal section shall not be taken as affecting the reference to market value in paragraph 1(1) of Schedule 7 to the Finance Act 1965 (under which a person who appropriates an asset as trading stock is to be treated as selling it for its market value).
- (2) A person to be treated under sub-paragraph (2) of the said paragraph 1 as having acquired any land (at the time when it is appropriated out of trading stock or is retained on his ceasing to carry on the trade) shall be treated as having acquired it for a consideration equal to its current use value at that time.

*Capital allowances and renewals allowances*

- 13 (1) Where any capital allowance or renewals allowance, as defined in paragraph 6 of Schedule 6 to the Finance Act 1965, is claimed or claimable in respect of expenditure on land to which this Schedule applies, and part of that expenditure is, under paragraph 3 of this Schedule, excluded from the sums allowable as a deduction in the computation under the said Schedule 6, it shall be assumed for the purposes of that Schedule that the capital allowance or renewals allowance is to be made, or made primarily, in respect of the part of that expenditure which is not so excluded.
- (2) Paragraph 28 of the said Schedule 6 shall apply where, under this Schedule, it is to be assumed that any land was on 6th April 1965 sold by the owner as it applies where that assumption is to be made under Part II of that Schedule.

*Tax on chargeable gains and estate duty*

- 14 Section 42(3) of the Finance Act 1966 (relief by reference to estate duty in respect of a gift inter vivos) shall not apply to a gift inter vivos consisting of land unless the current use value of the land at the time of the death exceeds the sums within paragraphs (a) and (b) of paragraph 4(1) of Schedule 6 to the Finance Act 1965 which, if the donee had disposed of the asset at the time of the death, would have been allowable in computing the gain accruing on that disposal and, if the said section 42(3) does so apply, that excess shall be the excess referred to in the expression " the said excess " in the provisions of the said section 42(3) which determine the proportion of estate duty by reference to which relief is to be given.

*Transitory provision for short-term gains subject to capital gains tax or corporation tax*

- 15 The principal section, without subsections (5) and (6), and with paragraphs 1 and 2 of this Schedule shall, notwithstanding that it is to be construed as one with Part III of the Finance Act 1965, apply with any necessary modifications where by virtue of section 17(15) or section 82(3) of the Finance Act 1965 any gain (or loss) accruing on the disposal is to be determined in accordance with the provisions applicable to income tax chargeable under Case VII of Schedule D (and not in accordance with the provisions of the said Part III).

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*Uniform application of current use values*

- 16 (1) In the computation of a gain accruing on a disposal to which subsection (1) of the principal section applies, it shall be assumed, where relevant, that that subsection and this Schedule also had effect in relation to any prior disposal or other transaction, notwithstanding that the prior disposal or other transaction fell before 6th April 1967 (but on or after 6th April 1965), or that subsection (1) of the principal section was then displaced by an election.
- (2) This paragraph applies in particular as respects a prior part disposal or a prior disposal to which any of the enactments mentioned in paragraph 8 of this Schedule applied.
- (3) This paragraph also applies notwithstanding that by virtue of paragraph 3(1) of Schedule 6 to the Finance Act 1965 (exclusion of short-term gains) the gain accruing on any prior disposal was not a chargeable gain, and sub-paragraph (7) of the said paragraph 3 (under which an apportionment of consideration or expenditure made for the purposes of a short-term gain is to be followed on a later disposal) shall not apply in relation to a gain accruing on a disposal to which subsection (1) of the principal section applies.

*Interpretation*

- 17 In the principal section and this Schedule, unless the context otherwise requires—
- " land " means a freehold interest in land or any lease of land,
- " material development ", " planning permission " and " project of material development " have the same meanings as in the Land Commission Act 1967,
- and in Scotland " freehold interest " shall be construed in accordance with section 100(2)(d) of the Land Commission Act 1967.