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SCHEDULES

SCHEDULE 6

Section 139.

SCHEDULE D, CASE I: TREATMENT OF FARM ETC. ANIMALS

Farming: the general rule

- 1 (1) Subject to the provisions of this Schedule, in computing profits or gains under Case I of Schedule D, animals kept by a fanner for the purposes of his fanning shall be treated as trading stock.
- (2) Animals forming part of production herds with respect to which an election under paragraph 2 below has effect shall not be so treated, but shall be treated instead in accordance with the rules set out in paragraph 3 below.
- (3) An election under the said paragraph 2 is in this Schedule referred to as " an election for the herd basis ".

Farming: election for the herd basis

- 2 (1) An election for the herd basis shall apply to all production herds of a particular class kept by the farmer making the election, including herds which he has ceased to keep before the making of the election, or first begins to keep after the making thereof.
 - (2) An election for the herd basis must be made in writing to the inspector, and must specify the class of herds to which it relates.
 - (3) Subject to paragraph 6 below, an election for the herd basis shall be valid only if it is made not later than two years after the end of the first chargeable period for which the farmer making the election is chargeable under Case I of Schedule D to tax in respect of the profits or gains of his farming, or is given relief under section 168 or 177(2) of this Act (set off of trading losses against general income) in respect of his farming, being profits or gains or relief the amount of which is computed by reference to the facts of a period during the whole or some part of which the farmer kept a production herd of the class in question.
 - (4) An election for the herd basis shall be irrevocable and, subject to paragraph 6 below, shall have effect for the said first chargeable period and all subsequent chargeable periods.
- 3 (1) Where an election for the herd basis has effect, the consequences for the purpose of computing profits or gains under Case I of Schedule D shall be as provided by this paragraph.
 - (2) The initial cost of the herd and, subject to the provisions of this paragraph as to replacements, the cost of any animal added to the herd shall not be deducted as an expense, and the value of the herd shall not be brought into account.

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- (3) Where an animal which has theretofore been treated as part of the farmer's trading stock is added to the herd otherwise than by way of replacement, there shall be included as a trading receipt—
- (a) in the case of an animal bred by the farmer, a sum equal to the cost of breeding it and rearing it to maturity, and
 - (b) in any other case, a sum equal to the initial cost to the farmer of acquiring the animal, together with any cost incurred by him in rearing it to maturity.
- (4) Where an animal forming part of the herd dies, or ceases to form part thereof, and is replaced therein by another animal—
- (a) any proceeds of sale of the animal which dies or ceases to form part of the herd shall be included as a trading receipt, and
 - (b) the cost of the animal which replaces it, except in so far as that cost consists of such costs as are allowable apart from the provisions of this Schedule as deductions in computing profits or gains of farming under Case I of Schedule D, shall be deducted as an expense:
- Provided that—
- (i) where the second-mentioned animal is of better quality than the animal which it replaces, the amount deducted shall not exceed the amount which it would have been necessary to expend in order to acquire an animal of the same quality as the one replaced, and
 - (ii) where the animal which is replaced was slaughtered by the order of any Ministry, government department or local or public authority under the law relating to diseases of animals, and the animal which replaces it is of worse quality, the amount included as a trading receipt shall not exceed the amount allowable as a deduction.
- (5) Where the herd is sold as a whole, and another production herd of the same class is acquired, sub-paragraphs (1) to (4) above shall apply as though there had been sold from the original herd, and replaced therein, a number of animals equal to the number in the original herd or in the newly acquired herd, whichever is the less.
- (6) If (either all at once or over a period not exceeding twelve months) either—
- (a) the whole of a herd is sold in circumstances in which subparagraph (5) above does not apply, or
 - (b) a part of a herd is sold on a substantial reduction being made in the number of animals in the herd,

any profit or loss arising from the transaction shall not be taken into account:

Provided that where, within five years of the sale, the seller acquires or begins to acquire another production herd of the class in question or, as the case may be, acquires or begins to acquire animals to replace the part of the herd in question—

- (i) sub-paragraphs (4) and (5) above shall apply to the acquisition or replacement, except that, if the sale was one which the seller was compelled to effect by causes wholly beyond his control, the amount included as a trading receipt in respect of any animal sold which is replaced by an animal of worse quality shall not exceed the amount allowable as a deduction in respect of that animal of worse quality, and
- (ii) for the purposes of the application of those sub-paragraphs, the proceeds of sale of the animals comprised in the original herd or part of a herd shall be

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brought into account as if they had been respectively received at the times of the corresponding acquisitions.

- (7) If an animal forming part of the herd is sold, and neither sub-paragraph (4) nor (5) nor (6) above applies, any profit or loss arising from the transaction shall be included or deducted, as the case may be; and for the purposes of this sub-paragraph, the said profit or loss shall be computed by comparing with the proceeds of sale—
- (a) in the case of an animal bred by the farmer, the cost of breeding it and rearing it to maturity, and
 - (b) in any other case, a sum equal to the initial cost to the farmer of acquiring the animal (or, in the case of an animal acquired otherwise than for valuable consideration, its market value when the farmer acquired it) together, in both cases, with any cost incurred by him in rearing it to maturity.
- (8) Where the herd is sold as a whole, and another production herd of the same class is acquired, and the number of animals in the newly acquired herd is less than the number in the original herd, then, if the difference is not substantial, sub-paragraph (6) above shall not apply, and sub-paragraph (7) above shall apply to a number of animals in the original herd equal to the difference.
- (9) The preceding provisions of this paragraph shall apply in relation to the death or destruction of animals as they apply in relation to their sale, as if any insurance or compensation moneys received by reason of the death or destruction were proceeds of sale, and any reference in this paragraph to the proceeds of sale of an animal includes a reference to any proceeds of sale of its carcase or any part thereof.

Farming : provisions applicable to special cases

- 4 A farmer who, having kept a production herd of a particular class, ceases altogether to keep herds of that class for a period of at least five years shall, as respects production herds kept by him after the end of that period, be treated as if he had never kept any production herds of that class before the end of that period.
- 5 (1) Where a farmer transfers to another person all or any of the animals which form part of a production herd otherwise than by way of sale, or by way of sale but for a price other than that which they would have fetched if sold in the open market, and either—
- (a) the transferor is a body of persons over whom the transferee has control, or the transferee is a body of persons over whom the transferor has control, or both the transferor and the transferee are bodies of persons and some other person has control over both of them, or
 - (b) it appears with respect to the transfer, or with respect to transactions of which the transfer is one, that the sole or main benefit, or one of the main benefits, which (apart from the provisions of this paragraph) might have been expected to accrue to the parties or any of them was a benefit resulting from the obtaining of a right to make an election for the herd basis, or from such an election having effect or ceasing to have effect, or from such an election having a greater effect or a less effect,
- the like consequences shall ensue, in relation to all persons concerned, for the purpose of computing profits or gains under Case I of Schedule D as would have ensued if the animals had been sold for the price which they would have fetched if sold in the open market.
- (2) In this paragraph " body of persons " includes a partnership, and " control " has the meaning given by section 534 of this Act.

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6 (1) Where the whole or a substantial part of a production herd kept by a farmer for the purposes of his fanning is slaughtered by the order of any Ministry, government department or local or public authority under the law relating to diseases of animals in such circumstances that compensation is payable in respect of it, an election for the herd basis thereupon made by the farmer in relation to that herd and any other production herds of the same class so kept by him shall, subject to sub-paragraph (2) below, be valid notwithstanding that it is not made within the time required by paragraph 2(3) of this Schedule.

(2) An election for the herd basis made by virtue of sub-paragraph (1) above shall only be valid if made not later than two years after the end of the first chargeable period for which the tax chargeable on the farmer in respect of the profits or gains of his farming finally falls to be computed by reference to the facts of a period in which the compensation is relevant:

Provided that, for income tax (but not corporation tax) purposes, if that chargeable period is the second year of assessment within the meaning of section 117 of this Act (basis of assessment for second and third years after commencement), and notice is given under subsection (2) of that section, the election shall be valid if made not later than the giving of that notice.

(3) An election for the herd basis made by virtue of sub-paragraph (1) above shall, notwithstanding paragraph 2(4) of this Schedule, have effect only for the chargeable period mentioned in sub-paragraph (2) above and subsequent chargeable periods:

Provided that, for income tax (but not corporation tax) purposes, the election shall have effect for earlier chargeable periods for the purposes of any claim under section 168 of this Act (set off of trading losses against general income) which is made by the farmer for relief in respect of his farming, if the relief falls to be computed wholly or partly by reference to the facts of a period in which the compensation is relevant.

(4) For the purposes of this paragraph, compensation shall be deemed to be relevant in any period if, but only if, it falls (or would but for an election under this paragraph fall) to be taken into account as a trading receipt in computing the profits or gains or losses of that or an earlier period.

Exclusion of working animals, and interpretation of preceding provisions

7 Nothing in this Schedule applies to any animals kept wholly or mainly for the work they do in connection with the carrying on of the farming.

8 (1) In this Schedule " herd " includes a flock, and any other collection of animals, however named.

(2) For the purposes of this Schedule, immature animals kept in a herd shall not be treated as forming part of the herd unless—

(a) the land on which the herd is kept is such that animals which die or cease to form part of the herd cannot be replaced except by animals bred and reared on that land, and

(b) the immature animals in question are bred in the herd, are maintained therein for the purpose of replacement, and are necessarily maintained for that purpose,

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and references in this Schedule to herds shall be construed accordingly, and references therein to an animal being added to a herd include references to an immature animal which is kept in the herd becoming a mature animal:

Provided that not more immature animals shall in any case be treated as forming part of a herd than are required to prevent a fall in the numbers of the herd.

Female animals shall be treated for the purposes of this Schedule as becoming mature when they produce their first young.

- (3) In this Schedule " a production herd" means, in relation to a farmer, a herd of animals of the same species (irrespective of breed) kept by him wholly or mainly for the sake of the products which they produce for him to sell, being products obtainable from the living animal.

In this sub-paragraph "product obtainable from the living animal" means—

- (a) the young of the animal, or
- (b) any other product obtainable from the animal, not being a product obtainable only by slaughtering the animal itself.

- (4) For the purposes of this Schedule, production herds kept by a fanner shall be deemed to be of the same class if, and only if, all the animals kept in the herds are of the same species (irrespective of breed) and the products produced for him to sell for the sake of which (either wholly or mainly) the herds are kept by him are of the same kinds in the case of all the herds ; and elections for the herd basis shall be framed accordingly.
- (5) Any reference in this Schedule to profits or gains chargeable to tax under Schedule D includes a reference to profits or gains which would be so chargeable if there were any such profits or gains for the chargeable period in question.

Application of preceding provisions to trades other than farming, creatures other than animals, and animals and creatures kept singly

- 9 (1) The preceding provisions of this Schedule shall, with the necessary adaptations, apply in relation to trades other than farming, and trades consisting only in part of farming, as they apply in relation to fanning, and references to fanners shall be construed accordingly.
- (2) The said provisions (both in relation to farming and in relation to other trades) shall apply in relation to living creatures other than animals as they apply in relation to animals.

Laying birds shall be treated for the purposes of this Schedule as becoming mature when they first lay.

- (3) The provisions of this Schedule shall (both in relation to farming and in relation to other trades) apply, with the necessary adaptations, in relation to animals or other creatures kept singly as they apply in relation to herds.
- (4) Nothing in this Schedule shall apply in relation to any animal or other creature kept wholly or mainly for public exhibition, or for racing or other competitive purposes.

Supplemental

- 10 Where an election for the herd basis is made, every person carrying on any farming or other trade affected by the election shall, if required to do so by notice from the

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inspector, make and deliver to the inspector, within the time specified in the notice, such returns as to, and as to the products of, the animals or other creatures kept by him for the purposes of the trade as may be required by the notice.

- 11 Where an election for the herd basis has effect for any chargeable period after an assessment for that period has become final and conclusive, any such assessment or, on a claim therefor, repayment of tax shall be made as may be necessary to give effect to the election