

SCHEDULES

SCHEDULE 3

PROVISIONS SUPPLEMENTARY TO SECTION 38

PART II

OTHER PROVISIONS SUPPLEMENTARY TO SECTION 38

*Computation of development gain in respect of disposal of
interest in land after material development has been carried out*

- 11 (1) This paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if material development of the land has been carried out after 17th December 1973 since the person making the disposal acquired the interest.
- (2) Subsection (3) of the principal section shall apply in relation to the disposal as if paragraph (b) were omitted, and as if for the words " whichever is the least " there were substituted the words " whichever is the smaller ".
- (3) For the purpose of computing the amount given by subsection (3)(c) of the principal section, the amount by which the current use value of the interest in land at the time of the disposal exceeds the current use value of the interest at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6th April 1965, its current use value at that date shall be taken to be equal to the sum of the amounts mentioned in the following sub-paragraph (or, if both those amounts are nil, to be nil).
- (4) The amounts referred to in the preceding sub-paragraph are the following, that is to say—
- (a) the amount (if any) by which the current use value of the interest immediately before the date on which the material development mentioned in sub-paragraph (1) above was begun exceeds the current use value of the interest at the time of its acquisition by the person making the disposal or on 6th April 1965, as the case may be; and
 - (b) the amount (if any) by which the current use value of the interest at the time of the disposal exceeds the aggregate of the amounts mentioned in the following sub-paragraph.
- (5) The amounts referred to in sub-paragraph (4)(b) above are the following, that is to say—
- (a) the current use value of the interest immediately after the date on which the material development mentioned in sub-paragraph (1) above was begun, calculated on the assumption that it was lawful for that development to be carried out; and

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- (b) the amount of any expenditure attributable to that development which is allowable under paragraph 4(1)(b) of Schedule 6 to the Finance Act 1965 as a deduction from the consideration for the disposal in computing the chargeable gain accruing thereon.
- (6) Where material development of the land in question has been carried out on two or more different occasions after 17th December 1973 since the person making the disposal acquired the interest, then for the purposes of this paragraph—
- (a) there shall be calculated for the first of those occasions the amount mentioned in sub-paragraph (4)(a) above (the reference there to the material development mentioned in sub-paragraph (1) above being for this purpose read as a reference to the material development carried out on that occasion);
 - (b) there shall be calculated for each of those occasions other than the first the amount (if any) by which the current use value of the interest immediately before the date on which the material development carried out on that occasion was begun exceeds the aggregate of the amounts mentioned in sub-paragraph (5) above (the references there to the material development mentioned in sub-paragraph (1) above being for this purpose read as references to the material development carried out on the occasion preceding the one for which the calculation is being made); and
 - (c) there shall be calculated the amount (if any) by which the current use value of the interest at the time of the disposal exceeds the aggregate of the amounts mentioned in sub-paragraph (5) above (the references there to the material development mentioned in sub-paragraph (1) above being for this purpose read as references to the material development carried out on the last of those occasions);

and sub-paragraph (3) above shall apply as if for the words from " the sum of the amounts mentioned in the following sub-paragraph " to the end of the paragraph there were substituted the words " the sum of the amounts calculated under sub-paragraph (6)(a) to (c) below (or, if those amounts are each nil, to be nil) ".

*Computation of development gain in respect of disposal
of interest in land reflecting expenditure on enhancement*

- 12 (1) This paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if any expenditure which is or, but for paragraph 1 of Schedule 8 to the Finance Act 1965, would be allowable under paragraph 4(1)(b) of Schedule 6 to the Finance Act 1965 as a deduction from the consideration for the disposal in computing the chargeable gain accruing thereon has been incurred since the person making the disposal acquired the interest, not being expenditure attributable to material development of the land carried out as mentioned in paragraph 11(1) of this Schedule (that is, carried out after 17th December 1973 since the person making the disposal acquired the interest).
- (2) For the purpose of computing the amount given by subsection (3)(c) of the principal section the current use value of the interest in land at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6th April 1965, its current use value at that date shall be taken to be equal to the sum of the amounts mentioned in the following sub-paragraph.
- (3) The amounts referred to in the preceding sub-paragraph are the following, that is to say—

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- (a) the current use value of the interest at the time of its acquisition by the person making the disposal or on 6th April 1965, as the case may be ; and
 - (b) so much of the expenditure mentioned in sub-paragraph (1) above as is reflected in the current use value of the interest at the time of the disposal.
- (4) Where material development of the land has been carried out (whether on only one occasion or on two or more different occasions) after 17th December 1973 since the person making the disposal acquired the interest, sub-paragraphs (2) and (3) above shall not apply, and paragraph 11 of this Schedule shall have effect subject to the following provisions of this paragraph.
- (5) Where any expenditure mentioned in sub-paragraph (1) above was incurred before the date on which the material development of the land carried out after 17th December 1973 on the first or only occasion was begun, then in calculating under paragraph 11(4)(a) or 11(6)(a) of this Schedule the amount mentioned in the said paragraph 11(4)(a), the current use value of the interest at the time of its acquisition by the person making the disposal or on 6th April 1965, as the case may be, shall be increased by so much of the expenditure so incurred as is reflected in the current use value of the interest immediately before the date on which the material development carried out on that occasion was begun.
- (6) Where any expenditure so mentioned was incurred on or after the date on which the material development of the land so carried out on the last or only occasion was begun, then in calculating under paragraph 11(5)(b) or 11(6)(c) of this Schedule the expenditure attributable to that material development which is allowable as mentioned in the said paragraph 11(5)(b) there shall be included in that expenditure so much of the expenditure incurred as is reflected in the current use value of the interest at the time of the disposal.
- (7) Where any expenditure so mentioned was incurred on or after the date on which the material development (" the preceding development ") so carried out on any but the last of two or more occasions was begun but before the date on which the material development (" the following development") carried out on the next of those occasions was begun, then, in calculating under paragraph 11(6)(b) of this Schedule the expenditure attributable to the preceding development which is allowable as mentioned in paragraph 11 (5)(b) of this Schedule, there shall be included in that expenditure so much of the expenditure so incurred as is reflected in the current use value of the interest immediately before the date on which the following development was begun.

Provisions supplementary to paragraphs 11 and 12

- 13 (1) Where paragraph 11 of this Schedule would, apart from this paragraph, apply in relation to a disposal of an interest in land because of any material development of the land carried out after 17th December 1973 since the person making the disposal acquired the interest, the said paragraph 11 shall not so apply if the amount by which the current use value of the interest immediately after the date on which that material development was begun, calculated on the assumption that it was lawful for that development to be carried out, exceeds the current use value of the interest immediately before that date—
- (a) is not greater than one-tenth of the current use value of the interest immediately before that date ; and
 - (b) does not exceed £2,500.

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- (2) Where material development of the land in question has been carried out on two or more different occasions after 17th December 1973 since the person making the disposal acquired the interest, then for the purposes of this paragraph there shall be calculated for each of those occasions the amount by which the current use value of the interest immediately after the date on which the material development carried out on that occasion was begun, calculated on the assumption that it was lawful for that development to be carried out, exceeds the current use value of the interest immediately before that date, and the preceding sub-paragraph shall not apply in relation to the disposal if the aggregate of the amounts so calculated exceeds £2,500.
- (3) Where by virtue of the preceding provisions of this paragraph paragraph 11 of this Schedule does not apply in relation to a disposal of an interest in land even though material development of the land has been carried out as aforesaid, the material development in question shall be disregarded for the purposes of paragraph 12 of this Schedule.
- 14 (1) Subject to the following sub-paragraph, material development shall for the purposes of paragraphs 11 to 13 of this Schedule not be treated as carried out after a particular date if it was begun on or before that date.
- (2) If, in the case of any land—
- (a) material development thereof was begun on or before 17th December 1973 but was not completed on or before that date ; and
- (b) the development was on that date to any extent not authorised by planning permission then in force,
- then, for the purposes of paragraphs 11 to 13 of this Schedule, so much of the development carried out after that date as was not so authorised on that date shall be treated as begun on the earliest date after 17th December 1973 on which any specified operation comprised therein is begun, and shall accordingly be treated as material development of the land carried out after 17th December 1973.
- (3) Sub-paragraph (3) of paragraph 1 of this Schedule shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 1 ; and in this paragraph " specified operation " has the same meaning as in paragraph 9 of this Schedule.

Computation of amount given by subsection (3)(c) of principal section in certain cases within paragraph 23(4) of Schedule 6 to the Finance Act 1965

- 15 Where a chargeable gain accrues to a person on a disposal of an interest in land to which the principal section applies, being a disposal in relation to which paragraph 23 of Schedule 6 to the Finance Act 1965 (sales of land in United Kingdom reflecting development value) applies, then, if the amount of the gain is by virtue of sub-paragraph (4) of that paragraph computed without regard to Part II of that Schedule (assets held on 6th April 1965), this Chapter shall have effect in relation to that disposal as if in subsection (3)(c) of the principal section and paragraphs 11 and 12 of this Schedule any reference to the current use value of the interest at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6th April 1965, its current use value at that date referred only to its current use value at the time of its acquisition by him.

Computation of development gains in connection with replacements of business assets

- 16 (1) Subject to the provisions of paragraph 2 of Schedule 4 to this Act, the development gain, if any, accruing in respect of a disposal of an interest in land to which the principal section applies shall, if the disposal is one in relation to which section 33 of the Finance Act 1965 (replacement of business assets) applies, be computed as if any claim under the said section 33 as respects the whole or a part of the consideration for the disposal had not been made.
- (2) The preceding sub-paragraph shall not affect the subsequent operation of paragraph 4 of Schedule 8 to this Act in relation to such a claim.
- 17 Where under subsection (1)(b) or (2)(b) of section 33 of the Finance Act 1965 or paragraph 18(4) of this Schedule the person making a disposal of an interest in land to which the principal section applies would, apart from this paragraph, be treated for the purposes of Part III of that Act as if the amount or value of the consideration for the acquisition of that interest were reduced or further reduced by some amount, the development gain, if any, accruing in respect of the disposal shall be computed as if the said subsection (1)(b) or (2)(b) or the said paragraph 18(4), as the case may be, did not apply to that consideration.

Replacement of business assets

- 18 (1) If the consideration which a person carrying on a trade obtains for the disposal of, or of his interest in, assets (in this paragraph referred to as " the old assets ") used, and used only, for the purposes of the trade throughout the period of ownership is wholly or partly applied by him in acquiring other assets, or an interest in other assets (in this paragraph referred to as " the new assets ") which on the acquisition are taken into use, and used only, for the purposes of the trade, and—
- (a) the old assets and new assets are within the classes of assets listed in subsection (6) of section 33 of the Finance Act 1965 (replacement of business assets) and the old assets consist of or include land in the United Kingdom; and
 - (b) some or all of the new assets are qualifying assets ; and
 - (c) development gains accrue to the person carrying on the trade in respect of the disposal; and
 - (d) the amount of the consideration for the disposal applied as aforesaid is greater than the difference between the whole of that consideration and the amount of those development gains,
- then, if the person carrying on the trade makes a claim as respects those development gains, the provisions of sub-paragraphs (2) to (5) below shall apply.
- (2) There shall be ascertained the following amounts, that is to say—
- (a) the amount by which so much of the consideration for the disposal as has been applied as described in sub-paragraph (1) above exceeds the difference mentioned in sub-paragraph (1)(d) above ; and
 - (b) the amount of the consideration for the disposal which has been so applied in acquiring qualifying assets ;
- and in the following provisions of this paragraph "the material amount" means whichever of those amounts is the smaller (or, if they are equal, the amount which is equal to each of them).

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- (3) The income tax or corporation tax to which the person carrying on the trade is chargeable for the chargeable period in which the disposal was made shall be reduced by an amount equal to whichever of the following amounts is the smallest, that is to say—
- (a) 30 per cent, of what is, under sub-paragraph (5) below, the appropriate amount;
 - (b) 30 per cent, of the amount, if any, by which the development gains accruing to him in that chargeable period exceed the development losses, if any, accruing to him in that period (so that if the amount under this head is nil, no reduction will fall to be made under this sub-paragraph) ;
 - (c) the total amount of the income tax for which he is liable for that chargeable period or, in the case of a company, the total amount of the corporation tax for which the company is liable for that chargeable period after setting against that liability the amount of any advance corporation tax falling to be set against it under section 85 of the Finance Act 1972, but before any set-off under subsection (5) of section 240 of the Taxes Act (income tax on distributions etc. received by U.K. company).

For the purposes of paragraph (b) of this sub-paragraph a man and his wife living with him shall be treated as one person if the result of so treating them is to increase the amount given by that paragraph.

- (4) Where a reduction falls to be made under the preceding sub-paragraph, the person carrying on the trade shall be treated for the purposes of Part III of the Finance Act 1965 as if the consideration for the acquisition of, or of the interest in, such of the new assets as are qualifying assets were reduced (or further reduced) by what is, under sub-paragraph (5) below, the appropriate amount; but this sub-paragraph shall not affect the treatment for those purposes of the other party to the transaction involving the old assets or of the other party to the transaction involving the new assets.
- (5) For the purposes of sub-paragraphs (3)(a) and (4) above—
- (a) if the material amount is equal to or greater than one-half of the development gains accruing in respect of the disposal, the appropriate amount is the full amount of the development gains so accruing ;
 - (b) if the material amount is less than one-half of the development gains so accruing, the appropriate amount is an amount equal to twice the material amount.
- (6) The following provisions shall, with any necessary modifications, apply for the purposes of this paragraph as they apply for the purposes of section 33 of the Finance Act 1965, namely—
- (a) subsections (3), (5) and (7) to (11) of that section ; and
 - (b) paragraph 3 of Schedule 12 to the Finance Act 1968.
- (7) Without prejudice to the provisions of Part III of the Finance Act 1965 providing generally for apportionments, where consideration is given—
- (a) for the acquisition or disposal of assets some or part of which are assets in relation to which a claim under this paragraph applies and some or part of which are not; or
 - (b) for the acquisition or disposal of assets some or part of which are, in relation to a claim under this paragraph, qualifying assets and some or part of which are not,

the consideration shall be apportioned in such manner as is just and reasonable.

- (8) For the purposes of this paragraph assets are, in relation to a trade, qualifying assets if they are within the following classes of assets, that is to say the classes listed in section 33(6) of the Finance Act 1965, excluding assets within paragraph (b) of head A in class 1 other than land constituting the site of any asset within paragraph (a) of that head (including in the site any land in the immediate vicinity of the asset which is occupied for purposes ancillary to the occupation and use of the asset).

Replacement of business assets: depreciating assets

- 19 (1) Paragraph 16 of Schedule 19 to the Finance Act 1969 (replacement of business assets: depreciating assets) shall have effect in relation to the preceding paragraph as it has effect in relation to section 33 of the Finance Act 1965, subject to the modifications specified in the following provisions of this paragraph and any other necessary modifications.

- (2) For sub-paragraph (1) substitute:—

“(1) Paragraph 18 of Schedule 3 to the Finance Act 1974 shall have effect subject to the provisions of this paragraph, in which—

- (a) the ' tax reduction' means the reduction in the income tax or corporation tax to which the person carrying on the trade is chargeable which is made under sub-paragraph (3) of the said paragraph 18 in connection with a disposal of an asset (called ' asset No. 1');
(b) the ' expenditure reduction' means the related amount by which, under sub-paragraph (4) of that paragraph, and apart from the provisions of this paragraph, the expenditure allowable in respect of another asset (called ' asset No. 2 ') is reduced ;
(c) any reference to an expenditure reduction of any amount being carried forward to any asset is a reference to a reduction of that amount in expenditure allowable in respect of that asset”.

- (3) In sub-paragraph (2)—

- (a) for the words from the beginning to " until" substitute—

“(2) If asset No. 2 is a depreciating asset, the expenditure reduction shall not be carried forward, but when—”

- (b) after " comes first" add “an amount equal to the tax reduction may be assessed to tax and recovered accordingly.

Any assessment to income tax or corporation tax under this paragraph shall be made under Case VI of Schedule D. ”.

- (4) In sub-paragraph (3)—

- (a) for " section 33 " substitute " paragraph 18 ";
(b) for " the gain held over from asset No. 1 " substitute " the expenditure reduction ".

- (5) In sub-paragraph (4)—

- (a) for the words from " the time when " to " accrue " substitute " the occurrence of whichever of the events mentioned in sub-paragraph (2) above comes first ";

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(b) for " the postponed gain" substitute " the expenditure reduction ".

(6) Omit sub-paragraphs (5) and (8) and, in sub-paragraph (9), for " section 33 " substitute " paragraph 18 ".

Company amalgamations

- 20 (1) Where a company issues shares or debentures to a person in exchange for shares in or debentures of another company in circumstances such that paragraph 6 of Schedule 7 to the Finance Act 1965 (company amalgamations) applies, then, if section 41(1) of this Act applies to the disposal by him to the issuing company of the shares in or debentures of the other company, the amount of any development gain accruing to him in respect of that disposal shall be computed as if the said paragraph 6 did not apply in relation to the exchange.
- (2) Where, in the case of a disposal of shares in or debentures of a company made in the circumstances mentioned in the preceding sub-paragraph, the amount of any development gain accruing in respect of that disposal falls by virtue of that sub-paragraph to be computed as if the said paragraph 6 did not apply in relation to the exchange, the provisions of paragraph 14 of Schedule 9 to this Act (postponement of payment of tax), excluding sub-paragraphs (2) and (6), shall, with any necessary modifications, apply in the case of that disposal as they apply in the case of a disposal of an interest in land which is deemed to have been made as mentioned in sub-paragraph (1) of the said paragraph 14, but as if in the said sub-paragraph (1) for the reference to the total tax chargeable in respect of a gain accruing on the disposal there were substituted a reference to such part of that total tax as is equal to the amount by which that total tax exceeds the tax which would have been chargeable but for the sub-paragraph (1) of this paragraph.

Private residences

- 21 Where subsection (3) of section 29 of the Finance Act 1965 (private residences) would, apart from this paragraph, apply to a gain accruing to an individual on a disposal of an interest in land to which the principal section applies, then—
- (a) there shall first be computed both the development gain that would accrue to him in respect of the disposal if that subsection did not so apply and the Chargeable gain that would accrue to him thereon if that were so ;
 - (b) the amount of the development gain accruing to him in respect of the disposal shall be equal to the amount of the development gain as computed under (a) above reduced by the fraction given by that subsection ; and
 - (c) that subsection shall then be applied to so much of the gain accruing on the disposal as is equal to the chargeable gain as computed under (a) above.

Transfer of business on retirement

- 22 (1) Where a disposal within subsection (1) of section 34 of the Finance Act 1965 (transfer of business on retirement) involves a disposal by the individual in question of one or more interests in land to which the principal section applies, the development gains, if any, accruing to him in respect of the disposal shall be computed without reference to that section.
- (2) Where any development gains accrue to an individual in respect of a disposal within subsection (1) of the said section 34, being gains which so accrue—

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- (a) where subsection (1)(a) of that section applies, on the disposal of chargeable business assets comprised in the disposal by way of sale or gift; or
- (b) where subsection (1)(b) of that section applies, on the disposal of the shares or securities,

sub-paragraphs (3) to (5) below shall apply in relation to the disposal within the said subsection (1) made by that individual, instead of the provisions of that section.

- (3) There shall be ascertained how much of the amount available for relief under subsection (1) of the said section 34 would, under subsection (2) or (3) of that section, have fallen to be applied in giving relief to the individual as respects the disposal if this Chapter had not applied in relation to the disposal.
- (4) An amount up to, but not exceeding, the amount ascertained under the preceding sub-paragraph shall be applied so as to give relief to the individual as respects the disposal by reducing or extinguishing one or both of the following amounts, that is to say—
 - (a) the aggregate of the development gains accruing to the individual in respect of the disposal, being gains which so accrue as mentioned in, sub-paragraph (2)(a) or (b) above ; and
 - (b) the aggregate of the chargeable gains accruing to him on the disposal, being gains which so accrue as mentioned in the said sub-paragraph (2)(a) or (b),and as between those amounts shall be so applied in whatever way is to the individual's best advantage.
- (5) Subsection (5) of the said section 34 shall apply for the purpose of arriving at the aggregate mentioned in sub-paragraph (4)(b) above as it applies (in cases where that section applies) for the purpose of arriving at the aggregate under subsection (2) or (3) of that section.
- (6) Any relief given under sub-paragraph (4) above as respects the disposal shall, for the purposes of the said section 34 as regards any other disposal within subsection (1) of that section, be taken into account in determining under subsection (4) of that section how far the amount available for relief under the said subsection (1) has been applied.
- (7) In this paragraph " chargeable business asset" has the same meaning as in the said section 34.

Insurance companies

- 23 Where, in the case of an insurance company carrying on life assurance business, a profit arising from general annuity business and attributable to a disposal of an interest in land to which section 38 of this Act applies falls (or would but for paragraph 7(2) of Schedule 7 to this Act fall) to be taken into account in the computation under section 312 of the Taxes Act (general annuity business and pension business: separate charge on profits), the development gain, if any, accruing to the company in respect of the disposal shall be computed as if paragraph 2(1) of Schedule 6 to the Finance Act 1965 (computation of chargeable gains: exclusion of sums taken into account in computing income) did not apply.

Chargeable gains in respect of mineral royalties

- 24 No part of any chargeable gain which under section 29 of the Finance Act 1970 (taxation of mineral royalties) is treated as accruing to a person entitled to receive such royalties under a mineral lease or agreement shall be a development gain.

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Computation of development gain in respect of disposal of interest in land with planning permission for the winning and working of minerals

- 25 (1) Without prejudice to any other provisions of this Schedule as to the computation of the amount given by subsection (3)(c) of the principal section, this paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if at the time of the disposal there is in force, as regards the land or any part of it, planning permission authorising material development consisting of the winning and working of minerals.
- (2) For the purpose of computing the amount given by subsection (3)(c) of the principal section, the amount of the chargeable gain accruing on the disposal shall be taken to be what it would be if the amount which, in the computation of that chargeable gain, falls to be taken as the consideration were reduced to the sum of the following amounts, that is to say—
- (a) the market value of the interest at the time of the disposal calculated on the assumption that it was at that time, and would continue to be, unlawful to carry out any material development of the land consisting of the winning and working of minerals ; and
 - (b) one-half of the amount by which the actual consideration for the disposal exceeds the said market value.

In this sub-paragraph " the actual consideration for the disposal" means the amount which, in the computation (apart from this paragraph) of the chargeable gain accruing on the disposal, falls to be taken as the consideration.

- (3) Sub-paragraph (3) of paragraph 1 of this Schedule shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 1 ; and in this paragraph " minerals " has the meaning given by paragraph 10(1) of this Schedule.
- (4) For the purposes of this paragraph the winning and working or minerals includes the carrying out of any ancillary operations requisite therefor.