

SCHEDULES :

SCHEDULE 5

Section 21.

SETTLED PROPERTY

Definition of "settlement" and related expressions

- 1 (1) The following provisions of this paragraph apply for determining what is to be taken for the purposes of capital transfer tax to be a settlement, and what property is, accordingly, referred to as property comprised in a settlement or as settled property ; and who is the settlor and a trustee in relation to a settlement.
- (2) " Settlement" means any disposition or dispositions of property, whether effected by instrument, by parol or by operation of law, or partly in one way and partly in another, whereby the property is for the time being—
- (a) held in trust for persons in succession or for any person subject to a contingency ; or
 - (b) held by trustees on trust to accumulate the whole or part of any income of the property or with power to make payments out of that income at the discretion of the trustees or some other person, with or without power to accumulate surplus income ; or
 - (c) charged or burdened (otherwise than for full consideration in money or money's worth paid for his own use or benefit to the person making the disposition), with the payment of any annuity or other periodical payment payable for a life or any other limited or terminable period ;
- or would be so held or charged or burdened if the disposition or dispositions were regulated by the law of any part of the United Kingdom; or whereby, under the law of any other country, the administration of the property is for the time being governed by provisions equivalent in effect to those which would apply if the property were so held, charged or burdened.
- (3) A lease of property which is for life or lives, or for a period ascertainable only by reference to a death, or which is terminable on, or at a date ascertainable only by reference to, a death, shall be treated as a settlement and the property as settled property, unless the lease was granted for full consideration in money or money's worth, and where a lease not granted as a lease at a rack rent is at any time to become a lease at an increased rent it shall be treated as terminable at that time.
- (4) In relation to Scotland " settlement" also includes—
- (a) an entail;
 - (b) any deed by virtue of which an annuity is charged on, or on the rents of, any property (the property being treated as the property comprised in the settlement).
- (5) In sub-paragraph (4) above, " deed " includes any disposition, arrangement, contract, resolution, instrument or writing.

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- (6) " Settlor ", in relation to a settlement, includes any person by whom the settlement was made directly or indirectly, and in particular (but without prejudice to the generality of the preceding words) includes any person who has provided funds directly or indirectly for the purpose of or in connection with the settlement or has made with any other person a reciprocal arrangement for that other person to make the settlement.
- (7) " Trustee ", in relation to a settlement in relation to which there would be no trustees apart from this sub-paragraph, means any person in whom the settled property or its management is for the time being vested.
- (8) Where more than one person is a settlor in relation to a settlement and the circumstances so require, this Schedule and section 25(3)(d) of this Act shall apply in relation to it as if the settled property were comprised in separate settlements.
- (9) In the application of this Schedule to Scotland, any reference to an interest in possession in settled property is a reference to an interest of any kind under a settlement actually being enjoyed by the person in right of that interest and the person in right of such an interest at any time shall be deemed to be entitled to a corresponding interest in the whole or any part of the property comprised in the settlement.
- (10) In the application of this Part of this Act to Northern Ireland this paragraph shall have effect as if references to property held in trust for persons included references to property standing limited to persons and as if the lease referred to in sub-paragraph (3) did not include a lease in perpetuity within the meaning of section 1 of the Renewable Leasehold Conversion Act 1849 or a lease to which section 37 of that Act applies.

Excluded property

- 2 (1) Where property comprised in a settlement is situated outside the United Kingdom—
- (a) the property (but not a reversionary interest in the property) is excluded property unless the settlor was domiciled in the United Kingdom at the time the settlement was made ; and
 - (b) section 24(2) of this Act applies to a reversionary interest in the property but does not otherwise apply in relation to the property.
- (2) In determining whether property comprised in a settlement which became so comprised before 10th December 1974 is excluded property section 45 of this Act shall be disregarded.

Interests in possession

- 3 (1) A person beneficially entitled to an interest in possession in settled property shall be treated as beneficially entitled to the property in which the interest subsists.
- (2) Where the person entitled to the interest is entitled to part only of the income (if any) of the property, the interest shall be taken to subsist in such part only of the property as bears to the whole thereof the same proportion as the part of the income to which he is entitled bears to the whole of the income.
- (3) Where the part of the income of any property to which a person is entitled is a specified amount (or the whole less a specified amount) in any period, his interest in

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the property shall be taken, subject to sub-paragraph (4) below, to subsist in such part (or in the whole less such part) of the property as produces that amount in that period.

- (4) The Treasury may from time to time by order made by statutory instrument prescribe a higher and a lower rate for the purposes of this paragraph ; and where tax is chargeable in accordance with sub-paragraph (3) above by reference to the value of the part of a property which produces a specified amount or by reference to the value of the remainder (but not where chargeable transfers are made simultaneously and tax is chargeable by reference to the value of that part as well as by reference to the value of the remainder) the value of the part producing that specified amount—
- (a) shall, if tax is chargeable by reference to the value of that part, be taken to be not less than it would be if the property produced income at the higher rate so prescribed ; and
 - (b) shall, if tax is chargeable by reference to the value of the remainder, be taken to be not more than it would be if the property produced income at the lower rate so prescribed ;
- but the value to be taken by virtue of paragraph (a) above as the value of part of a property shall not exceed the value of the whole of the property.
- (5) Where the person entitled to the interest is not entitled to any income of the property but is entitled, jointly or in common with one or more other persons, to the use and enjoyment of the property, his interest shall be taken to subsist in such part of the property as corresponds to the proportion which the annual value of his interest bears to the aggregate of the annual values of his interest and that or those of the other or others.
- (6) Where, under paragraph 1(3) of this Schedule, a lease of property is to be treated as a settlement, the lessee's interest in the property shall be taken to subsist in the whole of the property less such part of it as corresponds to the proportion which the value of the lessor's interest (as determined under Schedule 10 to this Act) bears to the value of the property.
- (7) A statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of the House of Commons.

Termination of interest in possession treated as transfer of value

- 4 (1) Where a person beneficially entitled to an interest in possession in any property comprised in a settlement disposes of his interest the disposal—
- (a) is not a transfer of value ; but
 - (b) shall be treated for the purposes of this Schedule as the coming to an end of his interest;
- and tax shall be charged accordingly under the following provisions of this paragraph.
- (2) Where at any time during the life of a person beneficially entitled to an interest in possession in any property comprised in a settlement his interest comes to an end, tax shall be charged, subject to the following provisions of this paragraph, as if at that time he had made a transfer of value and the value transferred had been equal to the value of the property in which his interest subsisted.
- (3) If the person whose interest in the property comes to an end becomes on the same occasion beneficially entitled to the property or to another interest in possession in

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the property tax shall not be chargeable under this paragraph, except in the case mentioned in sub-paragraph (10)(b) below.

- (4) If the interest comes to an end by being disposed of by the person beneficially entitled thereto and the disposal is for a consideration in money or money's worth, tax shall be chargeable under this paragraph as if the value of the property in which the interest subsisted were reduced by the amount of the consideration ; but in determining that amount the value of a reversionary interest in the property or of any interest in other property comprised in the same settlement shall be left out of account.
- (5) If the interest comes to an end during the settlor's life and on the same occasion the property in which the interest subsisted reverts to the settlor, tax shall not be chargeable under this paragraph unless the settlor had acquired a reversionary interest in the property for a consideration in money or money's worth.
- (6) If the interest comes to an end and on the same occasion the settlor's spouse becomes beneficially entitled to the settled property, then if—
- (a) the settlor's spouse is then domiciled in the United Kingdom and resident (within the meaning of the Income Tax Acts) in the United Kingdom in the year of assessment in which the interest comes to an end ; and
 - (b) neither the settlor nor the settlor's spouse had acquired a reversionary interest in the property for a consideration in money or money's worth ;
- tax shall not be chargeable under this paragraph.
- (7) Where the person beneficially entitled to the interest is the surviving spouse of a person who has died before 13th November 1974, tax shall not be chargeable under this paragraph if the value of the property in which the interest subsists would, by virtue of section 22(4) of this Act, have been left out of account in determining the value of his estate had he died immediately before the coming to an end of the interest.
- (8) The tax chargeable under this paragraph in a case where—
- (a) the settlement was made before 27th March 1974 ; and
 - (b) the interest comes to an end before 10th December 1974 ;
- shall not in any case exceed the tax that would be so chargeable if the values transferred by previous chargeable transfers made by the person beneficially entitled to the interest had been equal to the values (if any) on which tax is chargeable under this paragraph on the earlier termination of an interest in the settled property.
- (9) Where a transaction is made between the trustees of the settlement and a person who is, or is connected with.—
- (a) the person beneficially entitled to an interest in the property; or
 - (b) a person beneficially entitled to any other interest in that property or to any interest in any other property comprised in the settlement; or
 - (c) a person for whose benefit any of the settled property may be applied,
- and, as a result of the transaction, the value of the first-mentioned property is less than it would be but for the transaction, a corresponding part of the interest shall be deemed for the purposes of this paragraph to come to an end, unless the transaction is such that, were the trustees beneficially entitled to the settled property, it would not be a transfer of value.
- (10) References in this paragraph to any property and to an interest in any property include references to part of any property or interest; and—

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- (a) the tax chargeable under this paragraph on the coming to an end of part of an interest shall be charged as if the value of the property (or part) in which the interest subsisted were a corresponding part of the whole thereof; and
 - (b) if the value of the property (or part) to which or to an interest in which a person becomes entitled as mentioned in sub-paragraph (3) above is less than the value on which tax would be chargeable apart from that sub-paragraph, tax shall be chargeable on a value equal to the difference.
- (11) Tax shall not be chargeable under this paragraph if the settled property is excluded property.

Relief for successive charges on interest in possession

- 5 (1) Where the value transferred by a chargeable transfer falls to be determined by reference to the value of any settled property in which there subsists an interest in possession to which the transferor is entitled, and—
- (a) the value transferred by an earlier chargeable transfer also fell to be determined by reference to the value of that property; and
 - (b) that earlier transfer either was or included the making of the settlement or was made after the making of the settlement;
- then, if the period between those transfers is not more than four years, tax shall be charged as if the value of that property were reduced—
- (i) by 80 per cent, if that period is one year or less;
 - (ii) by 60 per cent, if that period is more than one year but not more than two years ;
 - (iii) by 40 per cent, if that period is more than two years but not more than three years ; and
 - (iv) by 20 per cent, if that period is more than three years.
- (2) Where the transferor became entitled to the interest on the death of a person and estate duty was payable on that death in respect of the settled property sub-paragraph (1) above shall apply as if the period referred to therein were the period between the death and the chargeable transfer.

Charge on capital distributions of settled property

- 6 (1) Where a distribution payment is made out of property comprised in a settlement and at the time the payment is made no interest in possession subsists in the property or in the part of it Out of which the payment is made, the payment is in this Schedule referred to as a capital distribution.
- (2) Where a person becomes entitled to an interest in possession in the whole or any part of the property comprised in a settlement at a time when no such interest subsists in the property or that part, a capital distribution shall be treated as being made out of the property or that part of the property; and the amount of the distribution shall be taken to be equal to the value at that time of the property or, if the interest is in part only of that property, of that part.
- (3) Where, at a time when no interest in possession subsists in property comprised in a settlement or in a part of that property, a transaction is made between the trustees of the settlement and a person who is, or is connected with.—
- (a) a person beneficially entitled to an interest in any of the settled property; or

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- (b) a person for whose benefit any of the settled property may be applied ;
and, as a result of the transaction, the value of the property or part is less than it would be but for the transaction, a capital distribution shall be treated as being made out of the property or part of an amount equal to that by which that value is less, unless the transaction is such that, were the trustees beneficially entitled to the settled property, it would not be a transfer of value.
- (4) Tax shall be charged on any capital distribution as on the value transferred by a chargeable transfer where—
- (a) the value transferred less the tax payable on it is equal to the amount of the capital distribution ; and
- (b) the rate applicable is that specified in paragraphs 7 to 9 below;
and in those paragraphs " the assumed transferor " means the person who Would be the transferor in relation to the chargeable transfer assumed by this sub-paragraph and the appropriate Table for the purposes of those paragraphs (including the calculation of any tax that would have been chargeable as mentioned in paragraph 7(2)(a) below) is the Second Table set out in section 37(3) of this Act.
- (5) The reference in sub-paragraph 4(a) above to the tax payable on a capital distribution does not include any tax which is payable by a person to whom a distribution payment is made ; and in relation to a capital distribution treated as made under sub-paragraph (2) or (3) above or paragraph 12, 15(3) or 24(2) below, sub-paragraph (4) (a) above shall have effect as if the words " less the tax payable on it" were omitted.
- (6) Notwithstanding sub-paragraph (1) above, a distribution payment which is made to the settlor or the settlor's spouse shall not be a capital distribution if the settlor or, as the case may be, the settlor's spouse is domiciled in the United Kingdom at the time the payment is made and resident (within the meaning of the Income Tax Acts) in the United Kingdom in the year of assessment in which it is made.
- (7) Sub-paragraph (2) above shall not be taken to apply in the case of a person who, on surviving another person for a specified period, becomes entitled to an interest in possession as from the other person's death.
- (8) Where a person entitled to an interest in possession in part of the property comprised in a settlement became so entitled as a member of a class, sub-paragraph (2) above shall not apply on his becoming entitled, as such a member, to an interest in possession in another part of that property, if he becomes so entitled on the death under full age of another member of that class.

Rates of charge on capital distributions following chargeable transfers

- 7 (1) This paragraph applies where, at or after the relevant time and before the capital distribution, there has been a transfer of value which satisfies the conditions stated in paragraph 11(2) below.
- (2) So far as the amount on which tax is chargeable, when added to the amount of all previous distribution payments made out of property comprised in the settlement, does not exceed the initial value, the rate chargeable shall be equal to the fraction of which—
- (a) the numerator is the amount of the tax which would have been charged on the value transferred by the relevant transfer, or such part of that amount as is attributable to the initial value, if the value so transferred had been

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- equal to the aggregate of the initial values of the settlement and any related settlement; and
- (b) the denominator is the initial value.
- (3) So far as the amount on which tax is chargeable, when so added, exceeds the initial value, the rate or rates chargeable shall be the rate or rates that would be applicable if the assumed transferor had made previous chargeable transfers and the aggregate of the values transferred by them were equal to the aggregate of—
- (a) the values transferred by any chargeable transfers which the person who made the relevant transfer had made before the relevant transfer;
- (b) the aggregate of the initial values of the settlement and any related settlement; and
- (c) the amounts of any previous distribution payments out of property comprised in the settlement, so far as the tax (if any) chargeable thereon is chargeable in accordance with this sub-paragraph.

Rate of charge on other capital distributions

- 8 (1) This paragraph applies where paragraph 7 above does not apply.
- (2) The rate or rates chargeable shall be the rate or rates that would be applicable if the assumed transferor—
- (a) had made previous chargeable transfers in any case where there had been previous distribution payments made on or after 27th March 1974 out of the settled property ; but
- (b) had made no previous chargeable transfers in any other case ;
- and, where paragraph (a) above applies, the aggregate of the values transferred by the previous chargeable transfers were equal to the aggregate amounts of the previous distribution payments mentioned therein.

Further property added by settlor

- 9 (1) The following provisions of this paragraph apply where, by a transfer of value made by the settlor at any time after the making of the settlement and after 26th March 1974 (in this paragraph referred to as " the subsequent transfer ") further property is added to the property comprised in the settlement immediately before the subsequent transfer (in this paragraph referred to as " the previous property ").
- (2) The subsequent transfer shall be treated for the purposes of paragraphs 6 to 8 above as the making of a separate settlement and the further property as property comprised in that separate settlement, and the following provisions of this paragraph shall apply for determining the property out of which any capital distributions made after the subsequent transfer are to be treated as made.
- (3) If paragraph 7 above would have applied to a capital distribution made immediately before the subsequent transfer, any capital distribution made after the subsequent transfer shall be treated as made—
- (a) out of the previous property, if or to the extent that the amount of the distribution, when added to the amount of all previous distribution payments made out of the settled property, does not exceed the previous value defined in sub-paragraph (4) below; and
- (b) out of the further property in any other case.

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- (4) For the purposes of sub-paragraph (3) above the previous value is the initial value, increased, if there was an earlier transfer which is a "subsequent transfer" as defined above, by the value, immediately after the earlier transfer, of any property added by it to the settled property.
- (5) If paragraph 7 above would not have applied to a capital distribution made immediately before the subsequent transfer, any capital distribution made after the subsequent transfer shall be treated as made—
- (a) out of the previous property, if or to the extent that the amount of the distribution, when added to the amount of any previous distribution payment made since the subsequent transfer, does not exceed the value of the settled property immediately before the subsequent transfer ; and
 - (b) out of the further property in any other case ;
- and accordingly, where paragraph (b) above applies, the rate or rates chargeable shall be determined in accordance with paragraph 7 above (and, where there is a further subsequent transfer, in accordance with sub-paragraphs (3) and (4) above).

Capital distributions after termination of interest of settlor or settlor's spouse

- 10 Where, after the termination of an interest in possession in a part (in this paragraph referred to as the chargeable part) of any property comprised in a settlement made after 26th March 1974, a capital distribution is made out of the chargeable part, and—
- (a) the settlor or the settlor's spouse was the person entitled to the interest before its termination, and either the settlor or the settlor's spouse was entitled to an interest in possession in the chargeable part immediately after the making of the settlement; and
 - (b) the making of the settlement either was not a transfer of value or was an exempt transfer or a transfer exempt to the extent of the value of the chargeable part;
- paragraphs 6 to 9 above shall apply as if the chargeable part were comprised in a separate settlement made by the person entitled to the first-mentioned interest on its termination and the termination of the interest were the relevant transfer; and as if the subsequent termination of any interest of his in any other part of the settled property were an addition made by him to the property comprised in that separate settlement.

Interpretation of paragraphs 6 to 10

- 11 (1) The following provisions apply for the interpretation of paragraphs 6 to 10 above.
- (2) The relevant transfer, in relation to any settlement, is the first transfer of value made at or after the relevant time which satisfies the conditions—
- (a) that the value of the property comprised in the settlement or of that part of it out of which the capital distributions are made was taken into account in determining the value transferred; and
 - (b) that the transfer was, or would but for paragraph 19(2) below or paragraphs 2 to 7 of Schedule 6 to this Act have been, a chargeable transfer ; and
 - (c) that, if the settlement was made before 27th March 1974, the transfer was made neither under paragraph 4 above nor on death ;

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and where it was not a chargeable transfer the reference in paragraph 7(2)(a) above to the tax which would have been charged is a reference to the tax which would have been charged but for paragraph 19(2) below or paragraphs 2 to 7 of Schedule 6 to this Act.

- (3) The relevant time, in relation to any settlement, is, if the settled property became comprised in the settlement on the death of any person, the time immediately before his death, and, in any other case, the time when the settlement was made.
- (4) Where, by the same disposition, property ceases to be comprised in one settlement and becomes comprised in another settlement, the property shall be treated as remaining comprised in the first settlement.
- (5) The amount of any distribution payment which is a capital distribution shall be taken (except for the purposes of paragraph 6(4)(a)) to be the amount on which tax is chargeable in respect of it.
- (6) A settlement is related to another if the same transfer of value is the relevant transfer in relation to both ; and for this purpose transfers of value made by the same person on the same day shall be treated as one.
- (7) " Distribution payment" means, subject to sub-paragraph (8) below, any payment which—
 - (a) is not income of any person for any of the purposes of income tax and would not for any of those purposes be income of a person not resident in the United Kingdom if he were so resident; and
 - (b) is not a payment in respect of costs or expenses;and " payment" includes the transfer of assets other than money.
- (8) The amount of any capital distribution treated as made under paragraph 6(2) or (3) above or paragraph 15(3) or 24(2) below shall also be deemed to be a distribution payment; but where, after an amount has been taken into account by virtue of this sub-paragraph as a distribution payment made out of the whole or part of any property, one or more distribution payments are made (otherwise than under this sub-paragraph) out of that property or part, the amount so taken into account shall be treated as reducing the amount of those payments.
- (9) " Initial value", in relation to any settlement, means the value, immediately after the relevant transfer, of the property then comprised in the settlement.
- (10) " Interest in possession " means an interest in possession to which an individual is beneficially entitled or, if the following conditions are satisfied, an interest in possession to which a company is beneficially entitled, the conditions being—
 - (a) that the business of the company consists wholly or mainly in the acquisition of interests in settled property ; and
 - (b) that the company has acquired the interest for full consideration in money or money's worth from an individual who was beneficially entitled to the interest.
- (11) References to settled property shall be construed as referring only to property which is not excluded property.

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Periodic charge to tax

- 12 (1) Where, at a relevant anniversary, no interest in possession subsists in the property comprised in a settlement or in a part of that property, a capital distribution of an amount equal to the value immediately before that anniversary of that property or part shall be treated as made out of that property or part, and tax shall be charged on a capital distribution so treated as made at 30 per cent, of the rate at which it would be chargeable under paragraphs 6 to 10 above on a capital distribution of the same amount made at the same date, but subject to any reduction under sub-paragraph (4) below.
- (2) Where the trustees of the settlement are not resident in the United Kingdom a capital distribution of a corresponding amount shall also be treated as made if no interest in possession subsists in the property or in a part thereof at the end of any year in the period of ten years ending with a relevant anniversary, except the last and except any year ending before 1st January 1976 ; and tax shall be charged on a capital distribution so treated as made at 3 per cent, of the rate at which it would be chargeable under paragraphs 6 to 10 above on a capital distribution of the same amount made at the same date.
- (3) Any tax charged by virtue of sub-paragraph (2) above shall be allowed as a credit against the tax chargeable on the next capital distribution made, or treated by virtue of sub-paragraph (1) above as made, out of the property or, as the case may be, out of the part concerned.
- (4) Where the whole or part of the value mentioned in sub-paragraph (1) above is attributable to property—
- (a) which was added by the settlor after the end of the first of the ten years ending with the relevant anniversary ; or
 - (b) in which an interest in possession subsisted throughout at least one of those ten years ;
- the rate at which, under sub-paragraph (1) above, tax is chargeable on that value or that part of it shall be reduced by one-tenth for each of those ten years throughout which either the settled property did not include that property, or an interest in possession subsisted in that property.
- (5) For the purposes of this paragraph trustees of a settlement shall be regarded as not resident in the United Kingdom unless the general administration of the settlement is ordinarily carried on in the United Kingdom and the trustees or a majority of them (and, where there is more than one class of trustees, a majority of each class) are for the time being resident in the United Kingdom.
- (6) For the purposes of this paragraph a relevant anniversary, in relation to a settlement, is the end of the ten years beginning with the date of the transfer of value which is the relevant transfer in relation to the settlement (or would be the relevant transfer in relation to it if dispositions made or events happening at that date could be chargeable transfers and paragraph (c) of paragraph 11(2) above were omitted) and the end of every subsequent ten years ; but no date falling before 1st April 1980 is a relevant anniversary.
- (7) In this paragraph expressions defined for the purposes of paragraphs 6 to 10 above have the same meanings as in those paragraphs.
- (8) Section 51(2) of this Act does not apply to a charge to tax under this paragraph so as to make it the relevant transfer in relation to any settlement.

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Tax credit for periodic charge

- 13 (1) Subject to sub-paragraph (2) below, where tax is charged at a relevant anniversary on any capital distribution treated by virtue of paragraph 12(1) above as made out of any property, the effective rate at which that tax is charged (taking into account any reduction under paragraph 12(4) above) shall reduce the rate at which, apart from this paragraph, tax would be chargeable on any capital distribution made out of that property on or not later than twenty years after that relevant anniversary.
- (2) The amounts by which tax on any capital distribution is reduced under sub-paragraph (1) above by reason of any tax charged under paragraph 12(1) above shall not together exceed the amount of the tax so charged.
- (3) In this paragraph " relevant anniversary " has the same meaning as in paragraph 12 above.

Transitional relief for settlements made before 27th March 1974

- 14 (1) In relation to a settlement made before 27th March 1974 paragraphs 6 to 12 above shall apply with the following modifications.
- (2) Subject to sub-paragraphs (3) to (5) below, the rate at which tax is chargeable on any capital distribution made before 1st April 1980 out of property comprised in the settlement (but not on any capital distribution which, under paragraph 9 above, is treated as made out of property comprised in a separate settlement made after 26th March 1974) shall be the following percentage of the rate at which it would be chargeable apart from this paragraph, that is to say—
- (a) 10 per cent, if the capital distribution is made before 1st April 1976 ;
 - (b) 12 1/2 per cent, if it is made after 31st March 1976 but before 1st April 1977;
 - (c) 15 per cent, if it is made after 31st March 1977 but before 1st April 1978 ;
 - (d) 17 1/2 per cent, if it is made after 31st March 1978 but before 1st April 1979 ; and
 - (e) 20 per cent, if it is made after 31st March 1979.
- (3) Where any capital distribution made after 31st March 1976 but before 1st April 1977 could not have been made except as the result of some proceedings before a court, this paragraph shall have effect in relation to it as if it had been made before 1st April 1976.
- (4) Sub-paragraph (2) above does not apply in relation to a capital distribution treated as made under paragraph 12(2) above.
- (5) Sub-paragraph (2) above does not apply—
- (a) in relation to a capital distribution treated as made under paragraph 6(2) above, unless the person becoming entitled as mentioned therein ; or
 - (b) in relation to a capital distribution treated as made under paragraph 15(3) below, unless each of the beneficiaries referred to therein ; or
 - (c) in relation to a distribution payment made for the benefit of any person, unless that person ;

is an individual who is domiciled in the United Kingdom at the time the capital distribution is made and resident (within the meaning of the Income Tax Acts) in the United Kingdom in the year of assessment in which it is made.

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- (6) In this paragraph expressions defined for the purposes of paragraphs 6 to 10 above have the same meanings as in those paragraphs.

Accumulation and maintenance settlements

- 15 (1) This paragraph applies to any settlement where—
- (a) one or more persons (in this paragraph referred to as beneficiaries) will, on or before attaining a specified age not exceeding twenty-five, become entitled to, or to an interest in possession in, the settled property or part of it; and
 - (b) no interest in possession subsists in the settled property or part and the income from it is to be accumulated so far as not applied for the maintenance, education or benefit of a beneficiary.
- (2) Where this paragraph applies to a settlement—
- (a) a payment made to a beneficiary out of the settled property or part concerned shall not be a capital distribution and a capital distribution shall not be treated as made under paragraph 6(2) above on a beneficiary's becoming entitled to an interest in the property or part; and
 - (b) no capital distribution shall be treated as made out of the property or part by virtue of paragraph 12 above at any time during the period for which the income is to be accumulated as mentioned in sub-paragraph (1)(b) above.
- (3) Where no interest in possession subsists in the property comprised in a settlement or some part of that property but the conditions stated in paragraphs (a) and (b) of sub-paragraph (1) above are not satisfied with respect to the property or part, then, if those conditions become satisfied with respect to the property or any part thereof a capital distribution shall be treated as being made out of the property or part and the amount of the distribution shall be taken to be equal to the value of the property with respect to which those conditions become satisfied.
- (4) Where the conditions stated in paragraphs (a) and (b) of sub-paragraph (1) above are satisfied at any time when there is only one beneficiary, they shall not be treated as ceasing to be satisfied on his death or on his attaining the specified age, if they would again be satisfied on the birth of another person.
- (5) In this paragraph expressions defined for the purposes of paragraphs 6 to 10 above have the same meanings as in those paragraphs.

Superannuation schemes

- 16 (1) This paragraph applies to any scheme or fund mentioned in subsection (1) or subsection (2) of section 221 of the Taxes Act, to any fund to which section 218 of that Act applies, to any exempt approved scheme or statutory scheme as defined in Chapter II of Part II of the Finance Act 1970 and to any other sponsored superannuation scheme as defined in section 226(11) of the Taxes Act.
- (2) An interest in or under a fund or scheme to which this paragraph applies which comes to an end on the death of the person entitled to it shall be left out of account in determining for the purposes of this Part of this Act the value of his estate immediately before his death, if the interest—
- (a) is, or is a right to, a pension or annuity; and
 - (b) is not an interest resulting (whether by virtue of the instrument establishing the fund or scheme or otherwise) from the application of any benefit

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provided under the fund or scheme otherwise than by way of a pension or annuity.

- (3) Paragraphs 3 and 4 above shall not apply in relation to an interest satisfying the conditions of paragraphs (a) and (b) of sub-paragraph (2) above ; and where any tax chargeable on a transfer of value is attributable to the value of such an interest, the persons liable for it shall not include the trustees of the scheme or fund but shall, where the transfer is made on the death of the person entitled to the interest, include his personal representatives.
- (4) In relation to an interest in or under a fund or scheme to which this paragraph applies, section 23(2) of this Act shall apply as if the words " other than settled property " were omitted (in both places).
- (5) Paragraphs 6 to 12 above shall not apply in relation to any property which is part of or held for the purposes of a fund or scheme to which this paragraph applies.
- (6) The reference in sub-paragraph (5) above to property which is part of or held for the purposes of a fund or scheme does not include a reference to a benefit which, having become payable under the fund or scheme, becomes comprised in a settlement; and where in such a case the settlement is made by a person other than the person entitled to the benefit, the settlement shall for the purposes of this Part of this Act be treated as made by the person so entitled.

Trusts for benefit of employees, etc.

- 17 (1) Where settled property is held on trusts which, either indefinitely or until the end of a period (whether defined by a date or in some other way) do not permit any of the settled property to be applied otherwise than for the benefit of—
- (a) persons of a class defined by reference to employment in a particular trade, profession or undertaking or employment by, or office with, a body carrying on a trade, profession or undertaking; or
 - (b) persons of a class defined by reference to marriage or relationship to, or dependence on, persons of a class defined as mentioned in paragraph (a) above ; or
 - (c) charities;
- then, subject to sub-paragraph (2) below, this paragraph applies to that settled property or, as the case may be, applies to it during that period.
- (2) Where any such class is defined by reference to employment by or office with a particular body this paragraph applies to the settled property only if the class comprises all or most of the persons employed by or holding office with that body.
 - (3) Where this paragraph applies to any settled property—
 - (a) the property shall be treated as comprised in one settlement, whether or not it would fall to be so treated apart from this paragraph; and
 - (b) an interest in possession in any part of the settled property shall be disregarded for the purposes of this Schedule if that part is less than 5 per cent, of the whole ; and
 - (c) subject to sub-paragraph (4) below, a payment out of the settled property shall not be a capital distribution and shall not be taken into account as a distribution payment; and

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- (d) paragraph 7 above shall not apply to any capital distribution made out of the settled property ; and
 - (e) paragraph 12 above shall apply subject to sub-paragraph (5) below, and paragraph 13 above shall not apply.
- (4) Sub-paragraph (3)(c) above does not apply in relation to any payment made for the benefit of a person who is, or is connected with.—
- (a) a person who has directly or indirectly provided any of the settled property otherwise than by additions not exceeding in value £1,000 in any one year ;
or
 - (b) in a case where the employment in question is employment by a close company, a person who is a participator in relation to that company and would, on a winding-up of the company, be entitled to not less than 5 per cent, of its assets.
- (5) Where this paragraph applies to any settled property, tax which would otherwise be chargeable at a relevant anniversary under paragraph 12(1) above shall be deferred until either a capital distribution is made or this paragraph ceases to apply to the settled property; and when any deferred tax becomes chargeable it shall be charged—
- (a) at the rate at which it would be chargeable if the relevant anniversary fell on the date on which the tax becomes chargeable ; and
 - (b) on an amount determined in accordance with the following provisions of this paragraph.
- (6) Where any deferred tax becomes chargeable when this paragraph ceases to apply to the settled property it shall be chargeable on an amount equal to the current value of the settled property.
- (7) Where any of the deferred tax becomes chargeable when a capital distribution is made—
- (a) it shall be chargeable on an amount determined under sub-paragraph (8) below ; and
 - (b) the amount of the tax shall reduce the amount on which tax is chargeable on that capital distribution (and if it exceeds that amount the excess shall reduce the amount on which tax is chargeable on the next capital distribution, and so on).
- (8) So far as any tax which would otherwise be chargeable on a relevant anniversary becomes chargeable when a capital distribution is made it shall be charged on an amount (in this sub-paragraph referred to as the first amount) equal to the proper proportion of the current value of the property out of which the capital distribution is made ; and where the capital distribution is made after the next relevant anniversary and, accordingly, more than one deferred tax becomes chargeable—
- (a) the second deferred tax shall be charged on the first amount less the amount of the first deferred tax; and
 - (b) the third deferred tax (if any) shall be charged on the amount found under paragraph (a) above less the amount of the second deferred tax ;
- and so on.
- (9) For the purposes of this paragraph—
- (a) the current value of any property is its value at the time any tax deferred under this paragraph becomes chargeable ; and

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(b) the proper proportion of the current value of any property out of which a capital distribution is made is the proportion which the amount on which tax is chargeable on the capital distribution bears to that current value ;
and in this paragraph " close company " and " participator " have the same meanings as in section 39 of this Act, " relevant anniversary " has the same meaning as in paragraph 12 above and " year " has the same meaning as in paragraph 2 of Schedule 6 to this Act.

Protective trusts

- 18 (1) This paragraph applies to settled property held on trusts to the like effect as those specified in section 33(1) of the Trustee Act 1925 ; and in this paragraph " the principal beneficiary " and " the trust period " have the same meanings as in that section.
- (2) Where this paragraph applies to any settled property—
- (a) tax shall not be charged under paragraph 4(2) above on the coming to an end during the trust period of the principal beneficiary's interest in the property ;
and
- (b) a distribution payment made out of the settled property for the benefit of the principal beneficiary shall not be a capital distribution.
- (3) Sub-paragraphs (5) to (9) of paragraph 17 above shall apply where this paragraph applies to any settled property as if the references to that paragraph were references to this paragraph and references to that paragraph ceasing to apply to the settled property included references to the coming to an end of the trust period.

Trusts for benefit of mentally disabled persons

- 19 (1) This paragraph applies to settled property held on trusts under which, during the life of a mentally disabled person, no interest in possession in the settled property subsists and which secure that any of the settled property which is applied during his life is applied only or mainly for his benefit.
- (2) Where this paragraph applies to any settled property, then—
- (a) if the mentally disabled person is the settlor, neither the making of the settlement nor any addition made by him to the settled property shall be a chargeable transfer ; and
- (b) a distribution payment made out of the settled property for the benefit of the mentally disabled person shall not be a capital distribution.
- (3) Sub-paragraphs (5) to (9) of paragraph 17 above shall apply where this paragraph applies to any settled property as if the references to that paragraph were references to this paragraph and references to that paragraph ceasing to apply to the settled property included references to the death of the mentally disabled person.
- (4) In this paragraph " mentally disabled person " means a person who by reason of mental disorder within the meaning of the Mental Health Act 1959 is incapable of administering his property or managing his affairs.

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Charitable trusts

- 20 Paragraphs 6 to 12 above do not apply in relation to settled property held for charitable purposes only.

Compensation funds

- 21 Paragraphs 6 to 12 above do not apply in relation to any fund which is maintained or administered by a representative association of persons carrying on a trade or profession and the only or main objects of which are compensation for or relief of losses or hardship incurred or likely to be incurred through the default or alleged default of persons carrying on the trade or profession or of their agents or servants.

Administration period

- 22 (1) Where a person would have been entitled to any interest in possession in the whole or part of the residue of the estate of a deceased person had the administration of that estate been completed, the same consequences shall follow under this Schedule as if he had become entitled to an interest in possession in the unadministered estate and in the property (if any) representing ascertained residue, or in a corresponding part of it, on the date as from which the whole or part of the income of the residue would have been attributable to his interest had the residue been ascertained immediately after the death of the deceased person.
- (2) In this paragraph—
- (a) " unadministered estate " means all the property for the time being held by personal representatives as such, excluding property devolving on them otherwise than as assets for the payment of debts and excluding property that is the subject of a specific disposition, and making due allowance for outstanding charges on residue and for any adjustments between capital and income remaining to be made in due course of administration;
 - (b) " ascertained residue " means property which, having ceased to be held by the personal representatives as such, is held as part of the residue ;
 - (c) " charges on residue ", and " specific disposition " have the same meanings as in Part (V) of the Taxes Act and the reference to the completion of the administration of an estate shall be construed as if contained in that Part.

Sales and mortgages of reversionary interests

- 23 (1) Where a reversionary interest in settled property was before 27th March 1974 sold or mortgaged for full consideration in money or money's worth, no greater amount of tax shall be payable by the purchaser or mortgagee when the interest falls into possession than the amounts of estate duty that would have been payable by him if none of the provisions of this Act had been passed; and any tax which, by virtue of this paragraph, is not payable by the mortgagee but which is payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.
- (2) Where the interest was sold or mortgaged to a close company in relation to which the person entitled to the interest was a participator, sub-paragraph (1) above applies only to the extent that other persons had rights and interests in the company.
- (3) Sub-paragraph (2) above shall be construed as if contained in section 39 of this Act.

Close companies

- 24 (1) In relation to a person who is a participator in his capacity as trustee of a settlement, subsection (1) of section 39 of this Act shall not apply ; and
- (a) the references in that section to subsection (1) thereof shall have effect as references to sub-paragraph (2) below ; and
 - (b) in relation to tax chargeable by virtue of sub-paragraph (2) below, subsection (4) of that section shall apply with the necessary modifications.
- (2) Where any part of the value transferred by a close company is apportioned to a trustee of a settlement under section 39 of this Act, then—
- (a) if an interest in possession subsists in the settled property a part of that interest corresponding to such part of the property as is of a value equal to the part so apportioned less the amount specified in sub-paragraph (3) below shall be treated for the purposes of this Schedule as having come to an end on the making of the transfer ; and
 - (b) if no interest in possession subsists in the settled property, the part of the value so apportioned less the amount specified in sub-paragraph (3) below shall be treated as a capital distribution made at the time of the transfer ;
- and where an interest in possession subsists in part only of the settled property paragraphs (a) and (b) above shall apply with the necessary adjustments of the values and amounts referred to therein.
- (3) The amount referred to in paragraphs (a) and (b) of sub-paragraph (2) above is the amount (if any) by which the value of the settled property is more than it would be apart from the company's transfer, leaving out of account the value of any rights or interests in the company.
- (4) Nothing in subsection (4) of section 39 of this Act shall be taken to prevent a transfer of value assumed to have been made by a person falling under sub-section (3)(a) of that section from being a relevant transfer as defined in paragraph 11 above.
- (5) Where a close company is entitled to an interest in possession in settled property the persons who are participators in relation to the company shall be treated for the purposes of this Schedule as being the persons beneficially entitled to that interest according to their respective rights and interests in the company.
- (6) In this paragraph expressions defined in section 39 of this Act have the same meanings as in that section.