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SCHEDULES :

SCHEDULE 6

EXEMPT TRANSFERS

PART III

SUPPLEMENTARY PROVISIONS

Preliminary

- 16 Where any one or more of paragraphs 1 and 10 to 13 above apply in relation to a transfer of value but the transfer is not wholly exempt—
- (a) any question as to the extent to which it is exempt or, where it is exempt up to a limit, how an excess over the limit is to be attributed to the gifts concerned shall be determined in accordance with paragraphs 17 to 21 below ; and
 - (b) the relief resulting from those paragraphs shall, notwithstanding the terms of any disposition, be allocated in accordance with paragraph 22 below.

Abatement not attributable to tax

- 17 Where a gift would be abated owing to an insufficiency of assets and without regard to any tax chargeable, the gift shall be treated for the purposes of the following provisions of this Part of this Schedule as so abated.

Abatement for tax—specific gifts

- 18 Where the value attributable, in accordance with paragraph 19 below, to specific gifts exceeds the value transferred the gifts shall be treated as reduced to the extent necessary to reduce their value to that of the value transferred ; and the reduction shall be made in the order in which, under the terms of the relevant disposition or any rule of law, it would fall to be made on a distribution of assets.

Attribution of value to specific gifts

- 19 (1) Such part of the value transferred shall be attributable to a specific gift as corresponds to the value of the gift; but if or to the extent that the gift—
- (a) is not a gift with respect to which the transfer is exempt or is outside the limit up to which the transfer is exempt; and
 - (b) does not bear its own tax ;
- the amount corresponding to the value of the gift shall be taken to be such amount as, after deduction of tax at the assumed rate specified in sub-paragraph (3) below, would be equal to the value of the gift.

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- (2) Where any question arises as to which of two or more specific gifts are outside the limit up to which a transfer is exempt or as to the extent to which a specific gift is outside that limit—
- (a) the excess shall be attributed to gifts not bearing their own tax before being attributed to gifts bearing their own tax; and
 - (b) subject to paragraph (a) above, the excess shall be attributed to the gifts in proportion to their values.
- (3) For the purposes of this paragraph—
- (a) the assumed rate is the rate found by dividing the assumed amount of tax by the value transferred ; and
 - (b) the assumed amount of tax is the amount of tax found by applying the rate or rates applicable under section 37 of this Act to the value transferred without regard to paragraphs 1 and 10 to 13 above.
- (4) For the purposes of this paragraph, any liability of the transferor which is not to be taken into account under paragraph 1(3) of Schedule 10 to this Act shall be treated as a specific gift.

Attribution of value to residuary gifts

- 20 Such part only of the value transferred shall be attributed to gifts of residue or shares in residue as is not attributed under paragraph 19 above to specific gifts.

Gifts made separately out of different funds

- 21 Where gifts taking effect on a transfer of value take effect separately out of different funds the preceding provisions of this Part of this Schedule shall be applied separately to the gifts taking effect out of each of those funds, with the necessary adjustments of the values and amounts referred to in those provisions.

Allocation of relief

- 22 (1) The reduction referred to in the following provisions of this paragraph is the reduction in tax resulting from paragraphs 1 and 10 to 13 above, after allowing for the reduction in the effective rate at which tax is chargeable.
- (2) The reduction shall reduce tax attributable to gifts bearing their own tax before reducing tax attributable to other gifts and, subject thereto, shall reduce the tax attributable to different gifts in proportion to their value.
- (3) Subject to sub-paragraph (4) below, the reduction shall reduce only tax falling on a gift with respect to which the transfer of value is exempt and, if it is so exempt only up to a limit, shall not reduce tax falling on so much of the gift as is outside the limit; and in particular, where such a gift is a gift of a share in residue or in any property, the reduction shall not reduce the tax falling on so much of the residue or that property as is not such a gift or is outside that limit.
- (4) The reduction may reduce tax attributable to specific gifts with regard to which the transfer is exempt or to so much of such gifts as is within the limit up to which it is exempt, notwithstanding that it falls on residue.

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Interpretation

23 (1) In this Part of this Schedule—

" gift ", in relation to any transfer of value, means the benefit of any disposition or rule of law by which, on the making of the transfer, any property becomes (or would but for any abatement become) the property of any person or applicable for any purpose and " given " shall be construed accordingly;

" specific gift " means any gift other than a gift of residue or of a share in residue.

(2) For the purposes of this Part of this Schedule a gift bears its own tax if the tax attributable to it falls on the person who becomes entitled to the property given or (as the case may be) is payable out of property applicable for the purposes for which the property given becomes applicable.