

## SCHEDULES :

### SCHEDULE 8

#### RELIEF FOR AGRICULTURAL PROPERTY

##### PART I

##### CAPITAL TRANSFER TAX

###### *Nature of relief*

- 1 (1) Where the value transferred by a chargeable transfer is determined by reference to the value of agricultural property in the United Kingdom and the conditions stated in paragraph 3 below are satisfied, then, if—
- (a) the value transferred would be reduced if computed in accordance with paragraph 2 below ; and
  - (b) a person liable to pay the whole or part of the tax on the value transferred makes a claim in that behalf to the Board within two years of the transfer or such longer time as the Board may allow;
- the value transferred shall be so computed and tax shall be chargeable accordingly, but subject to the limit imposed by paragraph 5 below.
- (2) The conditions stated in paragraph 3 below shall be deemed to be satisfied with respect to a transfer of value (in this sub-paragraph referred to as the current transfer) if—
- (a) not more than two years before the current transfer there was (or would have been had this Act then been in force) a transfer of value ; and
  - (b) the value transferred by the earlier transfer was or would have been determined by reference to the value of the same agricultural property as in the case of the current transfer; and
  - (c) the conditions stated in paragraph 3 below were or would have been satisfied with respect to the earlier transfer; and
  - (d) the agricultural property was, at the time of the current transfer, occupied for the purposes of agriculture by the transferor or by the personal representatives of the person who was or would have been the transferor in relation to the earlier transfer.
- (3) In the following provisions of this Part of this Schedule " the unreduced value ", in relation to a chargeable transfer, means the value transferred, calculated before the reduction and as if no tax were chargeable on it.
- 2 Where the value transferred is to be computed in accordance with this paragraph there shall first be ascertained such part of the unreduced value as is attributable to the agricultural value of the agricultural property (in this Part of this Schedule referred to as the part eligible for relief) and the value transferred shall then be

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computed as if the part eligible for relief were reduced by applying to it the fraction of which—

- (a) the numerator is the multiplied rental value of the agricultural property; and
- (b) the denominator is the agricultural value of the agricultural property.

*Conditions for relief*

- 3 (1) The conditions referred to in paragraph 1(1) above are—
- (a) that the transferor was, in not less than five of the seven years ending with 5th April immediately preceding the transfer, wholly or mainly engaged in the United Kingdom in any of the capacities mentioned in sub-paragraph (2) below (or partly in one of them and partly in another or others); and
  - (b) subject to paragraph 4 below, that the agricultural property was at the time of the transfer occupied by him for the purposes of agriculture and either was so occupied by him throughout the two years immediately preceding the transfer or replaced other agricultural property and was so occupied by him for a period which, when added to any period during which he so occupied the replaced property, comprised at least two years in the five years immediately preceding the transfer.
- (2) The capacities referred to in sub-paragraph (1) above are those of—
- (a) a person who carries on farming as a trade either alone or in partnership;
  - (b) a person employed in farming carried on as a trade by another person;
  - (c) a director of a company carrying on farming in the United Kingdom as its main activity ; or
  - (d) a person undergoing full-time education.
- (3) Where not less than 75 per cent, of the transferor's relevant income was immediately derived by him from his engagement in agriculture in the United Kingdom, the condition in sub-paragraph (1)(a) above shall be taken to be satisfied ; and for this purpose—
- (a) "relevant income" is the aggregate of income in any five of the last seven years of assessment immediately preceding the transfer which is earned income for the purposes of income tax other than income from a pension, superannuation or other allowance, deferred pay or compensation for loss of office ; and
  - (b) the question what was the transferor's income shall be determined without regard to section 37 of the Taxes Act (aggregation of wife's income).
- (4) Where the agricultural property had, at some time before the transfer, been occupied by the transferor for the purposes of agriculture and was, throughout the period between that time and the transfer, so occupied by a member of his family, the conditions in sub-paragraph (1) above shall be treated as satisfied if they would have been satisfied had the transfer occurred at that time.
- (5) Where the condition in sub-paragraph (1)(b) above is satisfied but the agricultural property which was occupied by the transferor at the time of the transfer was not occupied by him for the purposes of agriculture throughout the two years immediately preceding the transfer, then if the agricultural property which it replaced had, at the time when it ceased to be so occupied, a lower agricultural value than the first-mentioned property had at the time when it was first so occupied, the

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- part eligible for relief shall be ascertained as if the agricultural value of the first-mentioned property were reduced by applying to it the fraction of which—
- (a) the numerator is that lower agricultural value ; and
  - (b) the denominator is the agricultural value which the first-mentioned property then had.
- (6) For the purposes of sub-paragraph (1) above, where the transferor became entitled to the agricultural property on the death of another person—
- (a) his occupation of the agricultural property shall be deemed to have begun on the death of that person ; and
  - (b) if that other person was the transferor's spouse and the condition stated in sub-paragraph (1)(a) above was at the time of the death satisfied with respect to the spouse, it shall be treated as having then been satisfied with respect to the transferor.
- (7) For the purposes of sub-paragraph (1) above occupation by a company which is controlled by the transferor shall be treated as occupation by the transferor; and for this purpose the question whether any company is controlled by the transferor shall be determined as for the purposes of paragraph 13 of Schedule 4 to this Act.
- (8) For the purposes of this paragraph, occupation of any property by a Scottish partnership shall, notwithstanding section 4(2) of the Partnership Act 1890, be treated as occupation of it by the partners.
- (9) For the purposes of sub-paragraph (4) above, a person is a member of the transferor's family if he is the transferor's spouse or a relative of the transferor or of the transferor's spouse or is the spouse of such a relative ; and " relative " means ancestor, lineal descendant, brother, sister, uncle, aunt, nephew or niece, " spouse " includes former spouse, and an adopted person shall be treated as the child of the person or persons by whom he was adopted and an illegitimate person as the child of his mother and reputed father.

#### *Companies*

- 4 So far as the value transferred is determined by reference to the value of shares in or debentures of a company it shall be taken for the purposes of this Schedule to be determined by reference to the value of any agricultural property if and only if—
- (a) the agricultural property forms part of the company's assets and part of the value of the shares or debentures can be attributed to the agricultural value of the agricultural property ; and
  - (b) the shares or debentures gave the transferor control of the company immediately before the transfer (the question whether they did so being determined as for the purposes of paragraph 13 of Schedule 4 to this Act); and
  - (c) the main activity of the company is, and has been throughout the two years immediately preceding the transfer, farming in the United Kingdom ; and
  - (d) the agricultural property was at the time of the transfer occupied by the company for the purposes of farming and either was so occupied by it throughout the two years immediately preceding the transfer or replaced other agricultural property and was so occupied by it for a period which, when added to any period during which it so occupied the replaced property, comprised at least two years in the five years immediately preceding the transfer ;

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and the condition stated in paragraph (d) above shall replace that stated in paragraph 3(1)(b) above, and the references to that paragraph and to the transferor in paragraph 3(5) above shall be construed accordingly.

*Limitation of relief*

- 5 (1) Relief under this Part of this Schedule shall be given only to the extent that either—
- (a) the part eligible for relief, when added to the part eligible for relief under any previous chargeable transfer made by the same transferor, does not exceed £250,000 ; or
  - (b) the area of the agricultural property by reference to which the relief is given, together with that of any agricultural property by reference to which relief was given under previous chargeable transfers made by the same transferor, does not exceed one thousand acres.
- (2) For the purposes of sub-paragraph (1)(b) above—
- (a) where the transferor and some other person were together beneficially entitled to the agricultural property by reference to which the relief is given, the area of the property shall be taken to be such part thereof as corresponds to the transferor's share ; and
  - (b) where the agricultural property by reference to which the relief is given forms part of the assets of a company, the area of the property shall be taken to be such part thereof as corresponds to the proportion which the value of the shares and debentures first mentioned in paragraph 4 above bears to the value of all the shares in and debentures of the company.
- (3) For the purposes of this paragraph chargeable transfers made by the same person on the same day shall be treated as one ; and where the relief that could otherwise be given in respect of a chargeable transfer exceeds the limit imposed by this paragraph the excess shall be attributed to the agricultural properties concerned in proportion to their respective agricultural values or areas.

*Farming*

- 6 In this Schedule " farming " has the meaning which it would have in the Tax Acts if in those Acts " farm land " included market garden land; and for the purposes of this Schedule the question whether a person carries on farming as a trade shall be determined as for the purposes of income tax or, as the case may be, corporation tax.

*Agricultural property*

- 7 In this Schedule " agricultural property " means agricultural land or pasture and includes woodland if occupied with agricultural land or pasture and the occupation is ancillary to that of the agricultural land or pasture ; and also includes such cottages, farm buildings and farm-houses, together with the land occupied with them, as are of a character appropriate to the property.

*Agricultural value*

- 8 For the purposes of this Schedule the agricultural value of any agricultural property shall be taken to be the value which would be the value of the property if the property were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property.

*Multiplied rental value*

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- (1) For the purposes of this Schedule the multiplied rental value of any agricultural property in Great Britain is twenty times its rental value as defined below or such other multiple of that rental value as the Treasury may from time to time by order made by statutory instrument prescribe.
  - (2) The rental value of any agricultural property in Great Britain is the annual rent at which the property might reasonably be expected to be let with vacant possession as an agricultural holding if the landlord undertook to bear the cost of insurance and of repairs to buildings and fixed equipment so far as such cost is not normally borne by a tenant.
  - (3) The multiplied rental value of agricultural property in Northern Ireland is seven-tenths or such fraction of its agricultural value as the Treasury may from time to time by order made by statutory instrument prescribe.
  - (4) The fraction to be prescribed by an order under sub-paragraph (3) above shall be such as appears to the Treasury to represent the average of reductions made under paragraph 2 above in the case of agricultural property in Great Britain in the last period of twelve months preceding the making of the order which is a period for which information adequate for ascertaining that average is available, but taking into account any order under sub-paragraph (1) above.
  - (5) If the fraction first prescribed by an order under sub-paragraph (3) above is less than seven-tenths that sub-paragraph shall be deemed always to have had effect as if that fraction had been specified therein instead of seven-tenths; and so much of any tax paid as would not then have been chargeable shall be repaid.
  - (6) No order shall be made under this paragraph unless a draft of it has been laid before and approved by a resolution of the House of Commons.

*Channel Islands and Isle of Man*

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- This Part of this Schedule applies in relation to land or activities carried on in the Channel Islands or the Isle of Man as if the land were situated or the activities were carried on in the United Kingdom ; and the multiplied rental value of agricultural property in the Channel Islands or the Isle of Man shall be the same fraction of its agricultural value as in the case of agricultural property in Northern Ireland.

*Saving*

- 11
- Nothing in this Part of this Schedule shall be taken to apply to the value included under section 22(5) of this Act in the value of a person's estate immediately before his death.