

Status: Point in time view as at 17/09/2004.

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SCHEDULES

SCHEDULE 11

Section 290.

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

VALUATION

Preliminary

- 1 (1) This Part of this Schedule has effect in cases where the market value of an asset at a time before the commencement of this Act is material to the computation of a gain under this Act; and in this Part any reference to an asset includes a reference to any part of an asset.
- (2) Where sub-paragraph (1) above applies, the market value of an asset (or part of an asset) at any time before the commencement of this Act shall be determined in accordance with sections 272 to 274 but subject to the following provisions of this Part.
- (3) In any case where section 274 applies in accordance with sub-paragraph (2) above the reference in that section to inheritance tax shall be construed as a reference to capital transfer tax.

Gifts and transactions between connected persons before 20th March 1985

- 2 (1) Where sub-paragraph (1) above applies for the purpose of determining the market value of any asset at any time before 20th March 1985 (the date when section 71 of the Finance Act 1985, now section 19, replaced section 151 of the 1979 Act, which is reproduced below) sub-paragraphs (2) to (4) below shall apply.
- (2) Except as provided by sub-paragraph (4) below section 19 shall not apply in relation to transactions occurring before 20th March 1985.
- (3) If a person is given, or acquires from one or more persons with whom he is connected, by way of 2 or more gifts or other transactions, assets of which the aggregate market value, when considered separately in relation to the separate gifts or other transactions, is less than their aggregate market value when considered together, then for the purposes of this Act their market value shall be taken to be the larger market value, to be apportioned rateably to the respective disposals.
- (4) Where—
- (a) one or more transactions occurred on or before 19th March 1985 and one or more after that date, and

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- (b) had all the transactions occurred before that date sub-paragraph (3) above would apply, and had all the transactions occurred after that date section 19 would have applied,

then those transactions which occurred on or before that date and not more than 2 years before the first of those which occurred after that date shall be treated as material transactions for the purposes of section 19.

Valuation of assets before 6th July 1973

3 Section 273 shall apply for the purposes of determining the market value of any asset at any time before 6th July 1973 (the date when the provisions of section 51(1) to (3) of the Finance Act 1973, which are now contained in section 273, came into force) notwithstanding that the asset was acquired before that date or that the market value of the asset may have been fixed for the purposes of a contemporaneous disposal, and in paragraphs 4 and 5 below a “section 273 asset” is an asset to which section 273 applies.

4 (1) This paragraph applies if, in a case where the market value of a section 273 asset at the time of its acquisition is material to the computation of any chargeable gain under this Act—

- (a) the acquisition took place on the occasion of a death occurring after 30th March 1971 and before 6th July 1973, and
- (b) by virtue of paragraph 9 below, the principal value of the asset for the purposes of estate duty on that death would, apart from this paragraph, be taken to be the market value of the asset at the date of the death for the purposes of this Act.

(2) If the principal value referred to in sub-paragraph (1)(b) above falls to be determined as mentioned in section 55 of the Finance Act 1940 or section 15 of the Finance (No.2) Act (Northern Ireland) 1946 (certain controlling shareholdings to be valued on an assets basis), nothing in section 273 shall affect the operation of paragraph 9 below for the purpose of determining the market value of the asset at the date of the death.

(3) If sub-paragraph (2) above does not apply, paragraph 9 below shall not apply as mentioned in sub-paragraph (1)(b) above and the market value of the asset on its acquisition at the date of the death shall be determined in accordance with sections 272 (but with the same modifications as are made by paragraphs 7 and 8 below) and 273.

5 (1) In any case where—

- (a) before 6th July 1973 there has been a part disposal of a section 273 asset (“the earlier disposal”), and
- (b) by virtue of any enactment, the acquisition of the asset or any part of it was deemed to be for a consideration equal to its market value, and
- (c) on or after 6th July 1973 there is a disposal (including a part disposal) of the property which remained undisposed of immediately before that date (“the later disposal”),

sub-paragraph (2) below shall apply in computing any chargeable gain accruing on the later disposal.

(2) Where this sub-paragraph applies, the apportionment made by virtue of paragraph 7 of Schedule 6 to the Finance Act 1965 (corresponding to section 42 of this Act) on the

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occasion of the earlier disposal shall be recalculated on the basis that section 273(3) of this Act was in force at the time and applied for the purposes of the determination of—

- (a) the market value referred to in sub-paragraph (1)(b) above, and
- (b) the market value of the property which remained undisposed of after the earlier disposal, and
- (c) if the consideration for the earlier disposal was, by virtue of any enactment, deemed to be equal to the market value of the property disposed of, that market value.

Valuation of assets on 6th April 1965

- 6 (1) For the purpose of ascertaining the market value of any shares or securities in accordance with paragraph 1(2) of Schedule 2, section 272 shall have effect subject to the provisions of this paragraph.
- (2) Subsection (3)(a) shall have effect as if for the words, “one-quarter” there were substituted the words “one-half”, and as between the amount under paragraph (a) and the amount under paragraph (b) of that subsection the higher, and not the lower, amount shall be chosen.
- (3) Subsection (5) shall have effect as if for the reference to an amount equal to the buying price there were substituted a reference to an amount halfway between the buying and selling prices.
- (4) Where the market value of any shares or securities not within section 272(3) falls to be ascertained by reference to a pair of prices quoted on a stock exchange, an adjustment shall be made so as to increase the market value by an amount corresponding to that by which any market value is increased under sub-paragraph (2) above.

References to the London Stock Exchange before 25th March 1973 and Exchange Control restrictions before 13th December 1979

- 7 (1) For the purposes of ascertaining the market value of an asset before 25th March 1973 section 272(3) and (4) shall have effect subject to the following modifications—
 - (a) for “[^{F1}quoted] in The Stock Exchange Daily Official List” and “quoted in that List” there shall be substituted respectively “quoted on the London Stock Exchange” and “so quoted”;
 - (b) for “The Stock Exchange Daily Official List” there shall be substituted “the Stock Exchange Official Daily List”;
 - (c) for “The Stock Exchange provides a more active market elsewhere than on the London trading floor” there shall be substituted “some other stock exchange in the United Kingdom affords a more active market”; and
 - (d) for “if the London trading floor is closed” there shall be substituted “if the London Stock Exchange is closed”.
- (2) For the purposes of ascertaining the market value of an asset before 13th December 1979 section 272 shall have effect as if the following subsection were inserted after subsection (5)—

“(5A) In any case where the market value of an asset is to be determined at a time before 13th December 1979 and the asset is of a kind the sale of which was (at

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the time the market value is to be determined) subject to restrictions imposed under the Exchange Control Act 1947 such that part of what was paid by the purchaser was not retainable by the seller, the market value, as arrived at under subsection (1), (3), (4) or (5) above, shall be subject to such adjustment as is appropriate having regard to the difference between the amount payable by a purchaser and the amount receivable by a seller.”

Textual Amendments

- F1** Word in Sch. 11 para. 7(1)(a) substituted (with effect in accordance with Sch. 38 para. 12(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 38 para. 12\(2\)](#)

Depreciated valuations referable to deaths before 31st March 1973

- 8 In any case where this Part applies, section 272(2) shall have effect as if the following proviso were inserted at the end—

Provided that where capital gains tax is chargeable, or an allowable loss accrues, in consequence of a death before 31st March 1973 and the market value of any property on the date of death taken into account for the purposes of that tax or loss has been depreciated by reason of the death, the estimate of the market value shall take that depreciation into account.

Estate duty

- 9 (1) Where estate duty (including estate duty leviable under the law of Northern Ireland) is chargeable in respect of any property passing on a death after 30th March 1971 and the principal value of an asset forming part of that property has been ascertained (whether in any proceedings or otherwise) for the purposes of that duty, the principal value so ascertained shall, subject to paragraph 4(3) above, be taken for the purposes of this Act to be the market value of that asset at the date of the death.
- (2) Where the principal value has been reduced under section 35 of the Finance Act 1968 or section 1 of the Finance Act (Northern Ireland) 1968 (tapering relief for gifts inter vivos etc.), the reference in sub-paragraph (1) above to the principal value as ascertained for the purposes of estate duty is a reference to that value as so ascertained before the reduction.

PART II

OTHER TRANSITORY PROVISIONS

Value-shifting

- 10 (1) Section 30 applies only where the reduction in value mentioned in subsection (1) of that section (or, in a case within subsection (9) of that section, the reduction or increase in value) is after 29th March 1977.
- (2) No account shall be taken by virtue of section 31 of any reduction in the value of an asset attributable to the payment of a dividend before 14th March 1989.

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- (3) No account shall be taken by virtue of section 32 of any reduction in the value of an asset attributable to the disposal of another asset before 14th March 1989.
- (4) Section 34 shall not apply where the reduction in value, by reason of which the amount referred to in subsection (1)(b) of that section falls to be calculated, occurred before 14th March 1989.

Assets acquired on disposal chargeable under Case VII of Schedule D

- 11 (1) In this paragraph references to a disposal chargeable under Case VII are references to cases where the acquisition and disposal was in circumstances that the gain accruing on it was chargeable under Case VII of Schedule D, or where it would have been so chargeable if there were a gain so accruing.
- (2) The amount or value of the consideration for the acquisition of an asset by the person acquiring it on a disposal chargeable under Case VII shall not under any provision of this Act be deemed to be an amount greater than the amount taken into account as consideration on that disposal for the purposes of Case VII.
- (3) Any apportionment of consideration or expenditure falling to be made in relation to a disposal chargeable under Case VII in accordance with section 164(4) of the Income and Corporation Taxes Act 1970, and in particular in a case where section 164(6) of that Act (enhancement of value of land by acquisition of adjoining land) applied, shall be followed for the purposes of this Act both in relation to a disposal of the assets acquired on the disposal chargeable under Case VII and, where the disposal chargeable under Case VII was a part disposal, in relation to a disposal of what remains undisposed of.
- (4) Sub-paragraph (3) above has effect notwithstanding section 52(4).

Unrelieved Case VII losses

- 12 Where no relief from income tax (for a year earlier than 1971-72) has been given in respect of a loss or part of a loss allowable under Case VII of Schedule D, the loss or part shall, notwithstanding that the loss accrued before that year, be an allowable loss for the purposes of capital gains tax, but subject to any restrictions imposed by section 18.

Devaluation of sterling: securities acquired with borrowed foreign currency

- 13 (1) This paragraph applies where, in pursuance of permission granted under the Exchange Control Act 1947, currency other than sterling was borrowed before 19th November 1967 for the purpose of investing in foreign securities (and had not been repaid before that date), and it was a condition of the permission—
 - (a) that repayment of the borrowed currency should be made from the proceeds of the sale in foreign currency of the foreign securities so acquired or out of investment currency, and
 - (b) that the foreign securities so acquired should be kept in separate accounts to distinguish them from others in the same ownership,and securities held in such a separate account on 19th November 1967 are in this paragraph referred to as “designated securities” .

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- (2) In computing the gain accruing to the borrower on the disposal of any designated securities or on the disposal of any currency or amount standing in a bank account on 19th November 1967 and representing the loan, the sums allowable as a deduction under section 38(1)(a) shall, subject to sub-paragraph (3) below, be increased by multiplying them by seven-sixths.
- (3) The total amount of the increases so made in computing all gains (and losses) which are referable to any one loan (made before 19th November 1967) shall not exceed one-sixth of the sterling parity value of that loan at the time it was made.
- (4) Designated securities which on the commencement of this paragraph constitute a separate 1982 holding (within the meaning of section 109), shall continue to constitute a separate 1982 holding until such time as a disposal takes place on the occurrence of which sub-paragraph (3) above operates to limit the increases which would otherwise be made under sub-paragraph (2) in allowable deductions.
- (5) In this paragraph and paragraph 14 below, “foreign securities” means securities expressed in a currency other than sterling, or shares having a nominal value expressed in a currency other than sterling, or the dividends on which are payable in a currency other than sterling.

Devaluation of sterling: foreign insurance funds

- 14 (1) The sums allowable as a deduction under section 38(1)(a) in computing any gains to which this paragraph applies shall be increased by multiplying by seven-sixths.
- (2) This paragraph applies to gains accruing—
 - (a) to any underwriting member of Lloyd's, or
 - (b) to any company engaged in the business of marine protection and indemnity insurance on a mutual basis, on the disposal by that person after 18th November 1967 of any foreign securities which on that date formed part of a trust fund—
 - (i) established by that person in any country or territory outside the United Kingdom, and
 - (ii) representing premiums received in the course of that person's business, and
 - (iii) wholly or mainly used for the purpose of meeting liabilities arising in that country or territory in respect of that business.

Gilt-edged securities past redemption date

- 15 So far as material for the purposes of this or any other Act, the definition of “gilt-edged securities” in Schedule 9 to this Act shall include any securities which were gilt-edged securities for the purposes of the 1979 Act, and the redemption date of which fell before 1st January 1992.

Qualifying corporate bonds, company reorganisations, share conversions etc.

- 16 (1) Part IV of this Act has effect subject to the provisions of this paragraph.
- (2) The substitution of Chapter II of that Part for the enactments repealed by this Act shall not alter the law applicable to any reorganisation or reduction of share capital,

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conversion of securities or company amalgamation taking place before the coming into force of this Act.

- (3) Sub-paragraph (2) above applies in particular to the law determining whether or not any assets arising on an event mentioned in that sub-paragraph are to be treated as the same asset as the original holding of shares, securities or other assets.
- (4) In relation to a disposal or exchange on or after 6th April 1992, the following amendments shall be regarded as always having had effect, that is to say, the amendments to section 64 of, or Schedule 13 to, the Finance Act 1984 made by section 139 of, or paragraph 6 of Schedule 14 to, the Finance Act 1989, paragraph 28 of Schedule 10 to the Finance Act 1990 or section 98 of, or paragraph 1 of Schedule 10 to, the Finance Act 1991, or by virtue of the amendments to paragraph 1 of Schedule 18 to the Taxes Act made by section 77 of the Finance Act 1991.

Land: allowance for betterment levy

- 17 (1) Where betterment levy charged in the case of any land in respect of an act or event which fell within Case B or Case C or, if it was the renewal, extension or variation of a tenancy, Case F—
 - (a) has been paid, and
 - (b) has not been allowed as a deduction in computing the profits or gains or losses of a trade for the purposes of Case I of Schedule D;then, if the person by whom the levy was paid disposes of the land or any part of it and so claims, the following provisions of this paragraph shall have effect.
 - (2) Paragraph 9 of Schedule 2 shall apply where the condition stated in sub-paragraph (1)
 - (a) of that paragraph is satisfied, notwithstanding that the condition in sub-paragraph (1)(b) of that paragraph is not satisfied.
 - (3) Subject to the following provisions of this paragraph, there shall be ascertained the excess, if any, of—
 - (a) the net development value ascertained for the purposes of the levy, over
 - (b) the increment specified in sub-paragraph (6) below;and the amount of the excess shall be treated as an amount allowable under section 38(1)(b).
 - (4) Where the act or event in respect of which the levy was charged was a part disposal of the land, section 38 shall apply as if the part disposal had not taken place and sub-paragraph (5) below shall apply in lieu of sub-paragraph (3) above.
 - (5) The amount or value of the consideration for the disposal shall be treated as increased by the amount of any premium or like sum paid in respect of the part disposal, and there shall be ascertained the excess, if any, of—
 - (a) the aggregate specified in sub-paragraph (7) below, over
 - (b) the increment specified in sub-paragraph (6) below;and the amount of the excess shall be treated as an amount allowable under section 38(1)(b).
 - (6) The increment referred to in sub-paragraphs (3)(b) and (5)(b) above is the excess, if any, of—
 - (a) the amount or value of the consideration brought into account under section 38(1)(a), over

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- (b) the base value ascertained for the purposes of the levy.
- (7) The aggregate referred to in sub-paragraph (5)(a) above is the aggregate of—
 - (a) the net development value ascertained for the purposes of the levy, and
 - (b) the amount of any premium or like sum paid in respect of the part disposal, in so far as charged to tax under Schedule A (or, as the case may be, Case VIII of Schedule D), and
 - (c) the chargeable gain accruing on the part disposal.
- (8) Where betterment levy in respect of more than one act or event has been charged and paid as mentioned in sub-paragraph (1) above, sub-paragraphs (2) to (7) above shall apply without modifications in relation to the betterment levy in respect of the first of them; but in relation to the other or others sub-paragraph (3) or, as the case may be, (5) above shall have effect as if the amounts to be treated thereunder as allowable under section 38(1)(b) were the net development value specified in sub-paragraph (3)(a) or, as the case may be, the aggregate referred to in subparagraph (5) (a) of this paragraph.
- (9) Where the disposal is of part only of the land sub-paragraphs (2) to (8) above shall have effect subject to the appropriate apportionments.
- (10) References in this paragraph to a premium include any sum payable as mentioned in section 34(4) or (5) of the Taxes Act (sums payable in lieu of rent or as consideration for the surrender of lease or for variation or waiver of term) and, in relation to Scotland, a grassum.

Non-resident trusts

- 18 Without prejudice to section 289 or Part III of this Schedule—
- (a) any tax chargeable on a person which is postponed under subsection (4)(b) of section 17 of the 1979 Act shall continue to be postponed until that person becomes absolutely entitled to the part of the settled property concerned or disposes of the whole or part of his interest, as mentioned in that subsection; and
 - (b) section 70 of and Schedule 14 to the Finance Act 1984 shall continue to have effect in relation to amounts of tax which are postponed under that Schedule, and accordingly in paragraph 12 of that Schedule the references to section 80 of the Finance Act 1981 and to subsections (3) and (4) of that section include references to section 87 of this Act and subsections (4) and (5) of that section respectively.

Private residences

- 19 The reference in section 222(5)(a) to a notice given by any person within 2 years from the beginning of the period mentioned in section 222(5) includes a notice given before the end of the year 1966-67, if that was later.

Works of art etc.

- 20 The repeals made by this Act do not affect the continued operation of sections 31 and 32 of the Finance Act 1965, in the form in which they were before 13th March 1975, in relation to estate duty in respect of deaths occurring before that date.

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Disposal before acquisition

- 21 The substitution of this Act for the corresponding enactments repealed by this Act shall not alter the effect of any provision enacted before this Act (whether or not there is a corresponding provision in this Act) so far as it relates to an asset which—
- (a) was disposed of before being acquired, and
 - (b) was disposed of before the commencement of this Act.

Estate duty

- 22 Nothing in the repeals made by this Act shall affect any enactment as it applies to the determination of any principal value for the purposes of estate duty.

Validity of subordinate legislation

- 23 So far as this Act re-enacts any provision contained in a statutory instrument made in exercise of powers conferred by any Act, it shall be without prejudice to the validity of that provision, and any question as to its validity shall be determined as if the re-enacted provision were contained in a statutory instrument made under those powers.

Amendments in other Acts

- 24 (1) The repeal by this Act of the Income and Corporation Taxes Act 1970 does not affect—
- (a) the amendment made by paragraph 3 of Schedule 15 of that Act to section 26 of the Finance Act 1956, or
 - (b) paragraph 10 of that Schedule so far it applies in relation to the Management Act.
- (2) The repeal by this Act of Schedule 7 to the 1979 Act does not affect the amendments made by that Schedule to any enactment not repealed by this Act.

Saving for Part III of this Schedule

- 25 The provisions of this Part of this Schedule are without prejudice to the generality of Part III of this Schedule.

PART III

ASSETS ACQUIRED BEFORE COMMENCEMENT

- 26 (1) The substitution of this Act for the enactments repealed by this Act shall not alter the effect of any provision enacted before this Act (whether or not there is a corresponding provision in this Act) so far as it determines—
- (a) what amount the consideration is to be taken to be for the purpose of the computation under this Act of any chargeable gain; or
 - (b) whether and to what extent events in, or expenditure incurred in, or other amounts referable to, a period earlier than the chargeable periods to which this Act applies may be taken into account for any tax purposes in a chargeable period to which this Act applies.

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- (2) Without prejudice to sub-paragraph (1) above, the repeals made by this Act shall not affect—
- (a) the enactments specified in Part V of Schedule 14 to the Finance Act 1971 (charge on death) so far as their operation before repeal falls to be taken into account in chargeable periods to which this Act applies,
 - (b) the application of the enactments repealed by the 1979 Act to events before 6th April 1965 in accordance with paragraph 31 of Schedule 6 to the Finance Act 1965.
- (3) This paragraph has no application to the law relating to the determination of the market value of assets.
- 27 Where the acquisition or provision of any asset by one person was, immediately before the commencement of this paragraph and by virtue of any enactment, to be taken for the purposes of Schedule 5 to the 1979 Act to be the acquisition or disposal of it by another person, then, notwithstanding the repeal by this Act of that enactment, Schedule 2 to this Act shall also have effect as if the acquisition or provision of the asset by the first-mentioned person had been the acquisition or provision of it by that other person.

PART IV

OTHER GENERAL SAVINGS

- 28 Where under any Act passed before this Act and relating to a country or territory outside the United Kingdom there is a power to affect Acts passed or in force before a particular time, or instruments made or having effect under such Acts, and the power would, but for the passing of this Act, have included power to change the law which is reproduced in, or is made or has effect under, this Act, then that power shall include power to make such provision as will secure the like change in the law reproduced in, or made or having effect under, this Act notwithstanding that this Act is not an Act passed or in force before that time.
- 29 (1) The continuity of the law relating to the taxation of chargeable gains shall not be affected by the substitution of this Act for the enactments repealed by this Act and earlier enactments repealed by and corresponding to any of those enactments (“the repealed enactments”).
- (2) Any reference, whether express or implied, in any enactment, instrument or document (including this Act or any Act amended by this Act) to, or to things done or falling to be done under or for the purposes of, any provision of this Act shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.
- (3) Any reference, whether express or implied, in any enactment, instrument or document (including the repealed enactments and enactments, instruments and documents passed or made after the passing of this Act) to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the

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corresponding provision of this Act has effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.

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