

## SCHEDULES

### SCHEDULE 6

#### RETIREMENT RELIEF ETC.

##### PART I

###### INTERPRETATION

- 1 (1) This paragraph and paragraphs 2 and 3 below have effect for the purposes of this Schedule and sections 163 and 164.
- (2) In the provisions referred to above—
- “commercial association of companies” means a company together with such of its associated companies, within the meaning of section 416 of the Taxes Act, as carry on businesses which are of such a nature that the businesses of the company and the associated companies taken together may be reasonably considered to make up a single composite undertaking;
- “family company” means, in relation to an individual, a company the voting rights in which are—
- (i) as to not less than 25 per cent. exercisable by the individual, or
- (ii) as to more than 50 per cent. exercisable by the individual or a member of his family and, as to not less than 5 per cent. exercisable by the individual himself;
- “family” means, in relation to an individual, the husband or wife of the individual and a relative of the individual or of the individual’s husband or wife and, for this purpose, “relative” means brother, sister, ancestor or lineal descendant;
- “full-time working director”, in relation to one or more companies, means a director who is required to devote substantially the whole of his time to the service of that company or, as the case may be, those companies taken together, in a managerial or technical capacity;
- “group of companies” means a company which has one or more 51 per cent. subsidiaries, together with those subsidiaries;
- “holding company” means a company whose business (disregarding any trade carried on by it) consists wholly or mainly of the holding of shares or securities of one or more companies which are its 51 per cent. subsidiaries;
- “permitted period” means a period of one year or such longer period as the Board may, in any particular case, by notice allow;
- “trade”, “profession”, “vocation”, “office” and “employment” have the same meaning as in the Income Tax Acts;
- “trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades;

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*Status: This is the original version (as it was originally enacted).*

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“trading group” means a group of companies the business of whose members, taken together, consists wholly or mainly of the carrying on of a trade or trades.

- (3) For the purposes of sub-paragraph (2) above, voting rights exercisable by trustees of a settlement are to be treated as voting rights exercisable by a member of the family of an individual if—
- (a) the individual or any member of his family is a beneficiary under the settlement; and
  - (b) no one, other than the individual or a member of his family, is for the time being entitled under the settlement to receive any capital or income of the settled property; and
  - (c) the terms of the settlement are such that no one other than the individual or a member of his family can become entitled to capital or income except upon the failure (for whatever reason) of the individual or a member of his family to become so entitled.
- (4) Any reference in sub-paragraph (3) above to a person being or becoming entitled to any capital or income of the settled property includes a reference to a person—
- (a) whose entitlement is subject to a power which could be so exercised as to require all or any of the capital or income in question to be paid to some other person; or
  - (b) whose entitlement depends upon his exercising a power in his own favour.
- 2 (1) For the purposes of the provisions referred to in paragraph 1(1) above, where, as part of a reorganisation, within the meaning of section 126, there is a disposal of shares or securities of a company and, apart from this sub-paragraph, the shares disposed of and the new holding (as defined in that section) would fall to be treated, by virtue of section 127, as the same asset, section 127 shall not apply if the individual concerned so elects or, in the case of a trustees' disposal, if the trustees and the individual concerned jointly so elect; and an election under this sub-paragraph shall be made by notice given to the Board not more than 2 years after the end of the year of assessment in which the disposal occurred.
- (2) In sub-paragraph (1) above, the reference to a reorganisation, within the meaning of section 126, includes a reference to an exchange of shares or securities which is treated as such a reorganisation by virtue of section 135(3).
- 3 (1) A person who has been concerned in the carrying on of a business shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—
- (a) that he has ceased to be engaged in and, by reason of ill-health, is incapable of engaging in work of the kind which he previously undertook in connection with that business; and
  - (b) that he is likely to remain permanently so incapable.
- (2) In sub-paragraph (1) above, the reference to a person being concerned in the carrying on of a business is a reference to his being so concerned personally or as a member of a partnership carrying on the business; and the business which is relevant for the purposes of the provisions referred to in paragraph 1(1) above is that referred to—
- (a) in subsection (3) or subsection (4) of section 163 in relation to a material disposal of business assets;
  - (b) in subsection (5) of section 164 in relation to a trustees' disposal; and

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- (c) in subsection (7) of section 164 in relation to an associated disposal.
- (3) A person who has been a full-time working director of a company or of two or more companies shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—
- (a) that he has ceased to serve and, by reason of ill-health, is incapable of serving that company or, as the case may be, those companies in a managerial or technical capacity; and
  - (b) that he is likely to remain permanently incapable of serving in such a capacity that company or those companies (as the case may be) or any other company engaged in business of a kind carried on by that company or those companies.
- (4) In relation to an employee’s disposal, a person who has been exercising any office or employment shall be treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied—
- (a) that he has ceased to exercise and, by reason of ill-health, is incapable of exercising that office or employment; and
  - (b) that he is likely to remain permanently so incapable.
- 4 (1) In this Schedule—
- (a) “material disposal of business assets” has the same meaning as in section 163;
  - (b) “employee’s disposal” means a disposal falling within subsection (1) of section 164;
  - (c) “trustees’ disposal” means a disposal falling within subsection (3) of section 164 and, in relation to such a disposal, “the qualifying beneficiary” has the meaning assigned to it by paragraph (b) of that subsection;
  - (d) “associated disposal” has the meaning assigned to it by section 164(7);
- and “qualifying disposal” means any of the disposals referred to in paragraphs (a) to (d) above.
- (2) Any reference in this Schedule to the qualifying period is a reference to the period of at least one year which—
- (a) in relation to a material disposal of business assets, is referred to in subsection (3), subsection (4)(a) or subsection (5) (as the case may require) of section 163;
  - (b) in relation to an employee’s disposal, is referred to in section 164(2)(a);
  - (c) in relation to a trustees’ disposal, is referred to in subsection (4) or subsection (5) (as the case may require) of section 164;
- and, in relation to an associated disposal, any reference in this Schedule to the qualifying period is a reference to that period which is the qualifying period in relation to the material disposal of business assets with which the associated disposal is associated in accordance with section 164(7).
- (3) In relation to a qualifying disposal, any reference in this Schedule to the amount available for relief is a reference to the amount determined in accordance with paragraphs 13 to 16 below.