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## SCHEDULES

### SCHEDULE 5

#### RENT AND OTHER RECEIPTS FROM LAND

#### PART I

#### MAIN CHARGING PROVISIONS

##### Commencement Information

**II** Sch. 5 Pts. I-III in force and has effect as mentioned in s. 38.

1 In section 15(1) of the Taxes Act 1988 (the Schedule A charge), for Schedule A substitute—

##### “SCHEDULE A

- 1 (1) Tax is charged under this Schedule on the annual profits arising from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land in the United Kingdom.
  - (2) To the extent that any transaction is entered into for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land in the United Kingdom, it is taken to be entered into in the course of such a business.
  - (3) All businesses and transactions carried on or entered into by a particular person or partnership, so far as they are businesses or transactions the profits of which are chargeable to tax under this Schedule, are treated for the purposes of this Schedule as, or as entered into in the course of carrying on, a single business.

There are qualifications to this rule in the case of—

    - (a) companies not resident in the United Kingdom (see subsection (1A) below); and
    - (b) insurance companies (see sections 432AA and 441B(2A)).
  - (4) The receipts referred to in the expression “as a source of rents or other receipts” include—
    - (a) payments in respect of a licence to occupy or otherwise to use land or the exercise of any other right over land, and
    - (b) rentcharges, ground annuals and feu duties and other annual payments reserved in respect of, or charged on or issuing out of, the land.
- 2 (1) This Schedule does not apply to profits arising from the occupation of land.

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- (2) This Schedule does not apply to—
- (a) profits charged to tax under Case I of Schedule D under—  
 section 53(1) (farming and market gardening), or  
 section 55 (mines, quarries and other concerns);
  - (b) receipts or expenses taken into account as trading receipts or expenses under section 98 (tied premises);
  - (c) rent charged to tax under Schedule D under—  
 section 119 (rent, etc. payable in connection with mines, quarries and other concerns), or  
 section 120(1) (certain rent, etc. payable in respect of electric line wayleaves).
- (3) The profits of a Schedule A business carried on by a company shall be computed without regard to items giving rise to—  
 credits or debits within Chapter II of Part IV of the <sup>M1</sup>Finance Act 1996 (loan relationships), or  
 exchange gains or losses within Chapter II of Part II of the <sup>M2</sup>Finance Act 1993 (foreign exchange gains and losses), or  
 qualifying payments within Chapter II of Part IV of the <sup>M3</sup>Finance Act 1994 (interest rate and currency contracts).
- This Schedule does not affect the operation of those provisions.
- 3 (1) For the purposes of this Schedule a right to use a caravan or houseboat, where the use to which the caravan or houseboat may be put in pursuance of the right is confined to use at a single location in the United Kingdom, is treated as a right deriving from an estate or interest in land in the United Kingdom.
- (2) In sub-paragraph (1)—  
 “caravan” has the meaning given by section 29(1) of the <sup>M4</sup>Caravan Sites and Control of Development Act 1960; and  
 “houseboat” means a boat or similar structure designed or adapted for use as a place of human habitation.
- 4 (1) In the case of a furnished letting, any sum payable for the use of furniture shall be taken into account in computing the profits chargeable to tax under this Schedule in the same way as rent.
- Expenses in connection with the provision of furniture shall similarly be taken into account in the same way as expenses in connection with the premises.
- (2) A furnished letting means where—
- (a) a sum is payable in respect of the use of premises, and
  - (b) the tenant or other person entitled to the use of the premises is also entitled, in connection with that use, to the use of furniture.
- (3) This paragraph does not apply if the receipts and expenses are taken into account in computing the profits of a trade consisting in, or involving, making furniture available for use in premises.
- (4) In this paragraph—

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- (a) any reference to a sum includes the value of consideration other than money, and references to a sum being payable shall be construed accordingly; and
- (b) “premises” includes a caravan or houseboat within the meaning of paragraph 3.”.

#### **Marginal Citations**

- M1** 1996 c.8.
- M2** 1993 c.34.
- M3** 1994 c.9.
- M4** 1960 c.62.

2 In section 15 of the Taxes Act 1988 (the Schedule A charge), after subsection (1) insert—

“(1A) In the case of a company which is not resident in the United Kingdom—

- (a) businesses carried on and transactions entered into by it the profits of which are within the charge to corporation tax under Schedule A, and
  - (b) businesses carried on and transactions entered into by it the profits of which are within the charge to income tax under Schedule A,
- are treated as separate Schedule A businesses.”.

3 For the heading to Part II of the Taxes Act 1988 substitute “ PROVISIONS RELATING TO THE SCHEDULE A CHARGE ”.

4 For section 21 of the Taxes Act 1988 (persons chargeable and computation of amounts chargeable) substitute—

#### **“21 Persons chargeable and basis of assessment.**

- (1) Income tax under Schedule A shall be charged on and paid by the persons receiving or entitled to the income in respect of which the tax is directed by the Income Tax Acts to be charged.
- (2) Income tax under Schedule A is charged on the full amount of the profits arising in the year of assessment.
- (3) This section does not apply for the purposes of corporation tax.

#### **21A Computation of amount chargeable.**

- (1) Except as otherwise expressly provided, the profits of a Schedule A business are computed in the same way as the profits of a trade are computed for the purposes of Case I of Schedule D.
- (2) The following provisions apply in accordance with subsection (1)—
  - section 72 (apportionment);
  - the provisions of Chapter V of Part IV (computational provisions relating to the Schedule D charge), except as mentioned in subsection (4) below;
  - section 577 (business entertainment expenses);

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section 577A (expenditure involving crime);  
sections 579 and 580 (redundancy payments);  
sections 588 and 589 (training courses for employees);  
sections 589A and 589B (counselling services for employees);  
section 73(2) of the <sup>M5</sup>Finance Act 1988 (consideration for restrictive undertakings);  
section 43 of the <sup>M6</sup>Finance Act 1989 (deductions in respect of certain emoluments);  
section 76 of that Act (expenses in connection with non-approved retirement benefit schemes);  
sections 112 and 113 of that Act (expenditure in connection with provision of security asset or service);  
sections 42 and 46(1) and (2) of the Finance Act 1998 (provisions as to computation of profits and losses).

- (3) Section 74(1)(d) of this Act (disallowance of provisions for future repairs) applies in relation to a Schedule A business as if the reference to premises occupied for the purposes of the trade were to premises held for the purposes of the Schedule A business.
- (4) The following provisions in Chapter V of Part IV of this Act do not apply, or are excepted from applying, in accordance with subsection (1)—  
section 82 (interest paid to non-residents),  
section 87 (treatment of premiums taxed as rent),  
section 96 (farming and market gardening: relief for fluctuating profits), and  
section 98 (tied premises: receipts and expenses treated as those of trade).

### **21B Application of other rules applicable to Case I of Schedule D.**

The following provisions apply for the purposes of Schedule A in relation to a Schedule A business as they apply for the purposes of Case I of Schedule D in relation to a trade—

sections 103 to 106, 108, 109A and 110 (post-cessation receipts and expenses, etc.);  
section 113 (effect for income tax purposes of change in the persons engaged in carrying on trade);  
section 337(1) (effect of company beginning or ceasing to carry on trade);  
section 401(1) (pre-trading expenditure);  
section 44 of and Schedule 6 to the Finance Act 1998 (change of accounting basis).”.

#### **Marginal Citations**

**M5** 1988 c. 39.

**M6** 1989 c. 26.

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**“21C The Schedule A charge and mutual business.**

- (1) The following provisions have effect for the purpose of applying the charge to tax under Schedule A in relation to mutual business.
- (2) The transactions or relationships involved in mutual business are treated as if they were transactions or relationships between persons between whom no relationship of mutuality existed.
- (3) Any surplus arising from the business is regarded as a profit (and any deficit as a loss) if it would be so regarded if the business were not mutual.
- (4) The person—
  - (a) to whom the profit arises for corporation tax purposes, or
  - (b) who is regarded as receiving or entitled to the profit for income tax purposes,is the person who would satisfy that description if the business were not mutual business.
- (5) Nothing in this section affects the operation of section 488 (co-operative housing associations).”.

F16 .....

**Textual Amendments**

**F1** Sch. 5 para. 6 repealed (31.7.1998 with effect as mentioned in s. 39, Sch. 27 Pt. III(5)) by 1998 c. 36, s. 165, Sch. 27 Pt. III(5)

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**Textual Amendments**

**F2** Sch. 5 para. 7 repealed (31.7.1998 with effect as mentioned in s. 39, Sch. 27 Pt. III(5), Note) by 1998 c. 36, s. 165, Sch. 27 Pt. III(5)

8 In section 27 of the Taxes Act 1988 (maintenance funds for historic buildings), for subsection (3) substitute—

- “(3) Where by virtue of this section an election has effect in relation to an estate part of which is comprised in a settlement—
- (a) there may be treated as deductible from the receipts arising from that part—
    - (i) any disbursements or expenses of the trustees of the settlement which relate to the other part of the estate and which would be so deductible if that part were also comprised in the settlement, and
    - (ii) any disbursements or expenses of the owner of the other part of the estate to the extent to which they cannot be deducted by him in the chargeable period in which they are incurred because of an insufficiency of any receipts for that

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- period from which they are deductible apart from this sub-paragraph;
- (b) any relief available to the trustees by virtue of section 379A(2)(b) shall instead be available to the owner of the other part of the estate.
- This subsection has effect subject to subsection (2A) of section 26.”.
- 9 Section 28 of the Taxes Act 1988 (deductions from receipts other than rent) shall cease to have effect.
- 10 Section 29 of the Taxes Act 1988 (sporting rights) shall cease to have effect.
- 11 In section 30(1) of the Taxes Act 1988 (expenditure on sea walls)—
- (a) for “for the purposes of sections 25, 28 and 31” substitute “ for the purpose of computing the profits of any Schedule A business carried on in relation to those premises ”; and
- (b) for “in respect of dilapidation attributable to the year” substitute “ as an expense of the business for that year ”.
- 12 Section 31 of the Taxes Act 1988 (provisions supplementary to sections 25 to 30) shall cease to have effect.
- 13 Section 33 of the Taxes Act 1988 (agricultural land: allowance for excess expenditure on management) shall cease to have effect.
- 14 Sections 33A and 33B of the Taxes Act 1988 (connected persons) shall cease to have effect.
- 15 (1) Section 34 of the Taxes Act 1988 (treatment of premiums, etc. as rent or Schedule D profits) is amended as follows.
- (2) For the sidenote substitute “Treatment of premiums, etc. as rent.”.
- (3) In subsection (3) for the words from “from the rent” onwards substitute “ as an expense of any Schedule A business carried on by the landlord ”.
- (4) In subsection (6) for the words from “no charge” onwards substitute “ no amount shall fall under that subsection to be treated as a receipt of any Schedule A business carried on by the landlord; but that other person shall be taken to have received as income an amount equal to the amount which would otherwise fall to be treated as rent and to be chargeable to tax as if he had received it in consequence of having, on his own account, entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A. ”.
- (5) After subsection (7) insert—
- “(7A) An amount treated under this section as rent shall be taken into account in computing the profits of the Schedule A business in question for the chargeable period in which it is treated as received.”.
- (6) In subsection (8) for the words from “may, if that person satisfies the Board” to “at his option” substitute “ may, at his option, be paid ”.
- 16 (1) Section 35 of the Taxes Act 1988 (charge on assignment of lease granted at an undervalue) is amended as follows.
- (2) In the sidenote for “Schedule D charge” substitute “ Charge ”.
- (3) In subsection (2) for the words from “treated as profits or gains” onwards substitute “ deemed to have been received as income by the assignor and to have been received

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by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A.”.

(4) After that subsection insert—

“(2A) An amount deemed under this section to have been received as income by the assignor—

- (a) is treated as received when the consideration mentioned in subsection (2) becomes payable, and
- (b) shall be taken into account in computing the profits of the Schedule A business in question for the chargeable period in which it is treated as received.”.

17 (1) Section 36 of the Taxes Act 1988 (charge on sale of land with right to reconveyance) is amended as follows.

(2) In the sidenote for “Schedule D charge” substitute “ Charge ”.

(3) In subsection (1)—

- (a) for “the vendor shall be chargeable to tax under Case VI of Schedule D on” substitute “ the following amount shall be deemed to have been received as income by the vendor and to have been received by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A, that is to say ”; and
- (b) for “on that excess” substitute “ the amount of the excess ”.

(4) After subsection (4) insert—

“(4A) An amount deemed under this section to have been received as income by the vendor—

- (a) is treated as received when the estate or interest is sold, and
- (b) shall be taken into account in computing the profits of the Schedule A business in question for the chargeable period in which it is treated as received.

(4B) For the purposes of subsection (4A)(a) an estate or interest in land is treated as sold when any of the following occurs—

- (a) an unconditional contract for its sale is entered into,
- (b) a conditional contract for its sale becomes unconditional, or
- (c) an option or right of pre-emption is exercised requiring the vendor to enter into an unconditional contract for its sale.”.

18 (1) Section 37 of the Taxes Act 1988 (deductions from premiums and rents received) is amended as follows.

(2) In subsection (1) for paragraphs (a) and (b) substitute—

- “(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35, or
- (b) any amount would fall to be so treated but for the operation of subsection (2) or (3) below.”.

(3) In subsection (2)—

- (a) in paragraph (b), for the words from “be” to “any amount” substitute “ be treated by virtue of section 34 or 35 as receiving any amount as income in the course of carrying on a Schedule A business ”; and

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- (b) in the closing words, for “on which he is so chargeable” substitute “ which he shall be treated as having so received ”.
- (4) In subsection (3)—
- (a) for “chargeable under section 34 or 35” substitute “ treated by virtue of section 34 or 35 as having received any amount as income in the course of carrying on a Schedule A business and falls to be so treated ”; and
- (b) for “on which he is so chargeable” substitute “ which he shall be treated as having so received ”.
- (5) In subsection (4) for the words from “purposes” to “other premises” substitute “ purpose, in computing the profits of a Schedule A business, of making deductions in respect of the disbursements and expenses of that business ”.
- 19 For the heading before section 40 of the Taxes Act 1988 substitute “ *Supplementary provisions* ”.
- 20 (1) Section 40 of the Taxes Act 1988 (tax treatment of receipts and outgoings on sale of land) is amended as follows.
- (2) In subsection (1) for “become receivable or payable on his behalf” substitute “ been received or paid by him ”.
- (3) In subsection (3)(b), for the words from “had become receivable” to the end substitute “ had been received or paid directly by him immediately before the time to which the apportionment is made ”.
- (4) After subsection (4) insert—
- “(4A) An amount deemed under this section to have been received or paid shall be taken into account in computing the profits of the Schedule A business in question for the period in which it is treated as received or paid.”.
- (5) Omit subsection (5).
- 21 Section 41 of the Taxes Act 1988 (relief for rent not paid, etc.) shall cease to have effect.
- 22 In section 42A of the Taxes Act 1988 (non-residents and their representatives), omit subsection (8).
- 23 In section 65 of the Taxes Act 1988 (Case IV and V assessments: general)—
- (a) omit subsections (2A) and (2B), and
- (b) in subsection (4), after “Subsections (1) to (3) above” insert “ and section 65A below ”.
- 24 For section 65A of the Taxes Act 1988 (Case V income from land overseas, etc.) substitute—

**“65A Case V income from land outside UK: income tax.**

- (1) This section applies where a person is chargeable to income tax under Case V of Schedule D in respect of income which—
- (a) arises from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land outside the United Kingdom, and

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- (b) is not income to which section 65(3) applies (income immediately derived from carrying on a trade, profession or vocation).
- (2) The provisions of Schedule A apply to determine whether income falls within subsection (1)(a) above as they would apply to determine whether the income fell within paragraph 1(1) of that Schedule if—
  - (a) the land in question were in the United Kingdom, or
  - (b) a caravan or houseboat which is to be used at a location outside the United Kingdom were to be used at a location in the United Kingdom.
- (3) Any provision of the Taxes Acts which deems there to be a Schedule A business in the case of land in the United Kingdom applies where the corresponding circumstances arise with respect to land outside the United Kingdom so as to deem there to be a business within subsection (1)(a) above.
- (4) All businesses and transactions carried on or entered into by a particular person or partnership, so far as they are businesses or transactions the income from which is chargeable to tax under Case V of Schedule D in accordance with this section, are treated for the purposes of the charge to tax under Case V as, or as entered into in the course of carrying on, a single business (an “overseas property business”).
- (5) The income from an overseas property business shall be computed for the purposes of Case V of Schedule D in accordance with the rules applicable to the computation of the profits of a Schedule A business.

Those rules apply separately in relation to—

  - (a) an overseas property business, and
  - (b) any actual Schedule A business of the person chargeable,

as if each were the only Schedule A business carried on by that person.
- (6) Sections 80 and 81 (expenses in connection with foreign trades and travel between trades etc.) do not apply in relation to the computation of the profits of an overseas property business.
- (7) Sections 503 and 504 of this Act and section 29 of the 1990 Act (provisions relating to furnished holiday accommodation) do not apply to the profits or losses of an overseas property business.
- (8) Where under this section rules expressed by reference to domestic concepts of law apply in relation to land outside the United Kingdom, they shall be interpreted so as to produce the result that most closely corresponds with the result produced for Schedule A purposes in relation to land in the United Kingdom.”.

25 After section 70 of the Taxes Act 1988 (corporation tax: basis of assessment, etc.) insert—

**“70A Case V income from land outside UK: corporation tax.**

- (1) This section applies where a company is chargeable to corporation tax under Case V of Schedule D in respect of income which—

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- (a) arises from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land outside the United Kingdom, and
  - (b) is not income to which section 70(2) applies (income from a trade or vocation).
- (2) The provisions of Schedule A apply to determine whether income falls within subsection (1)(a) above as they would apply to determine whether the income fell within paragraph 1(1) of that Schedule if—
- (a) the land in question were in the United Kingdom, or
  - (b) a caravan or houseboat which is to be used at a location outside the United Kingdom were to be used at a location in the United Kingdom.
- (3) Any provision of the Taxes Acts which deems there to be a Schedule A business in the case of land in the United Kingdom applies where the corresponding circumstances arise with respect to land outside the United Kingdom so as to deem there to be a business within subsection (1)(a) above.
- (4) All businesses and transactions carried on or entered into by a particular company or partnership, so far as they are businesses or transactions the income from which is chargeable to tax under Case V of Schedule D in accordance with this section, are treated for the purposes of the charge to tax under Case V as, or as entered into in the course of carrying on, a single business (an “overseas property business”).
- (5) The income from an overseas property business shall be computed for the purposes of Case V of Schedule D in accordance with the rules applicable to the computation of the profits of a Schedule A business.
- Those rules apply separately in relation to—
- (a) an overseas property business, and
  - (b) any actual Schedule A business of the company chargeable,
- as if each were the only Schedule A business carried on by that company.
- (6) Sections 503 and 504 of this Act and section 29 of the 1990 Act (provisions relating to furnished holiday accommodation) do not apply to the profits or losses of an overseas property business.
- (7) Where under this section rules expressed by reference to domestic concepts of law apply in relation to land outside the United Kingdom, they shall be interpreted so as to produce the result that most closely corresponds with the result produced for Schedule A purposes in relation to land in the United Kingdom.”.

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