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SCHEDULES

SCHEDULE 5

RENT AND OTHER RECEIPTS FROM LAND

PART III

MINOR AND CONSEQUENTIAL AMENDMENTS

Income and Corporation Taxes Act 1988 (c. 1)

- 34 In section 87(1) of the Taxes Act 1988 (treatment of taxable premiums in case of land used in connection with trade, profession or vocation), 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 section 37(2) or (3);”.
- 35 In section 118 of the Taxes Act 1988 (limited partnerships: restriction on relief)—
- (a) in the opening words of subsection (1), and
 - (b) in subsection (2), in the definition of “the aggregate amount”,
- for “403(1) to (3) and (7)” substitute “403”.
- 36 In section 400 of the Taxes Act 1988 (loss relief: effect of write-off of government investment), in subsection (2) after paragraph (b) insert—
- “(bb) any losses which—
 - (i) under section 392A(2) or 392B are carried forward to the next accounting period, or
 - (ii) under section 392A(3) are treated as management expenses disbursed in the next accounting period;”.
- 37 (1) Section 404 of the Taxes Act 1988 (limitation of group relief in relation to dual resident investment companies) is amended as follows.
- (2) In subsection (2), for paragraph (a) substitute—
- “(a) in which the trading loss or Schedule A loss is incurred; or
 - (aa) in which the non-trading deficit on the company’s loan relationships arises; or”.
- (3) In subsection (6), omit paragraph (c).
- 38 In section 413(6) of the Taxes Act 1988 (interpretation: meaning of company being owned by consortium), for “403(10)” substitute “403ZA(3)”.
- 39 In Chapter I of Part XII of the Taxes Act 1988 (insurance companies), after section 432A insert—

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“432AA Schedule A business or overseas property business.

- (1) An insurance company is treated as carrying on separate Schedule A businesses, or overseas property businesses, in accordance with the following rules.
- (2) The exploitation of land held as an asset of the company’s long term business fund is treated as a separate business from the exploitation of land not so held.
- (3) The exploitation of land held as an asset of the company’s overseas life assurance fund is treated as a separate business from the exploitation of other land held as an asset of its long term business fund.
- (4) The exploitation of land held as an asset linked to any of the following categories of business is regarded as a separate business—
 - (a) pension business;
 - (b) life reinsurance business;
 - (c) basic life assurance and general annuity business;
 - (d) long term business other than life assurance business.
- (5) Accordingly, the exploitation of land held as an asset of the company’s long term business fund otherwise than as mentioned in subsection (3) or (4) is treated as a separate business from any other.
- (6) In this section “land” means any estate, interest or rights in or over land.

432AB Losses from Schedule A business or overseas property business.

- (1) This section applies to any loss arising in a Schedule A business or overseas property business.
- (2) A loss arising from any category of business mentioned in section 432A(2) shall be apportioned under that section in the same way as income.
- (3) So far as a loss is referable to basic life assurance and general annuity business, it shall be treated as if it were an amount of expenses of management under section 76 disbursed for the accounting period in which the loss arose.
- (4) Where a company is treated under section 432AA as carrying on—
 - (a) more than one Schedule A business, or
 - (b) more than one overseas property business,then, in relation to either kind of business, the reference in subsection (3) above to a loss referable to basic life assurance and general annuity business shall be construed as a reference to any aggregate net loss after setting the losses from those businesses which are so referable against any profits from those businesses that are so referable.
- (5) The provisions of section 392A or 392B (loss relief) do not apply to a loss referable to life assurance business or any category of life assurance business.
- (6) Where a company is treated under section 432AA as carrying on—

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- (a) more than one Schedule A business, or
 - (b) more than one overseas property business,and, in relation to either kind of business, there are losses and profits referable to business which is not life assurance business, those losses shall be set against those profits before being used under section 392A or 392B.”.
- 40 (1) Section 434E of the Taxes Act 1988 (capital allowances: investment assets held for purposes of life assurance business) is amended as follows.
- (2) For subsection (1) substitute—
 - “(1) In this section “investment asset” means an asset which—
 - (a) is held by a company for the purposes of its life assurance business otherwise than for the management of that business, and
 - (b) is not let in the course of a Schedule A business or overseas property business.”.
- (3) Omit subsection (3).
- (4) In subsection (6) for “section 145(3) shall not apply” substitute “neither section 145(3) nor section 403(1) shall apply”.
- 41 In section 441B of the Taxes Act 1988 (treatment of UK land linked to a company’s overseas life assurance business), after subsection (2) insert—
 - “(2A) For the purposes of subsection (2) above a Schedule A business for the exploitation of any land to which this section applies shall be treated as a separate business from any other such business.”.
- 42 For section 503 of the Taxes Act 1988 (letting of furnished holiday accommodation treated as a trade) substitute—

“503 Letting of furnished holiday accommodation treated as a trade for certain purposes.

- (1) For the purposes specified in subsection (2)—
 - (a) a Schedule A business which consists in, or so far as it consists in, the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as if it were a trade the profits of which are chargeable to tax under Case I of Schedule D, and
 - (b) all such lettings made by a particular person or partnership or body of persons shall be treated as one trade.

The “commercial letting of furnished holiday accommodation” is defined below in section 504.

- (2) Subsection (1) above applies for the purposes of—
 - (a) Chapters I and II of Part X (loss relief for income tax and corporation tax), and
 - (b) sections 623(2)(c), 644(2)(c) and 833(4)(c) (income regarded as relevant earnings for pension purposes or as earned income).
- (3) Chapter I of Part X (loss relief for income tax) as applied by this section has effect with the following adaptations—

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- (a) no relief shall be given to an individual under section 381 (relief for losses in early years of trade) in respect of a year of assessment if any of the accommodation in respect of which the trade is carried on in that year was first let by that person as furnished accommodation more than three years before the beginning of that year of assessment;
 - (b) section 384 (restrictions on right of set-off) has effect with the omission of subsections (6) to (8) and the words after paragraph (b) in subsection (10) (which relate to certain losses attributable to capital allowances);
 - (c) section 390 (treatment of interest as loss) has effect as if the reference to a trade the profits of which are chargeable to tax under Case I of Schedule D were a reference to the Schedule A business so far as it is treated as a trade.
- (4) Where there is a letting of accommodation only part of which is holiday accommodation, such apportionments shall be made for the purposes of this section as are just and reasonable.
- (5) Relief shall not be given for the same loss, or the same portion of a loss, both under a provision of Part X as applied by this section and under any other provision of the Tax Acts.”.
- 43 In section 579 of the Taxes Act 1988, omit subsection (4) and in subsection (5) (twice) for “subsections (2), (3) and (4)” substitute “subsections (2) and (3)”.
- 44 In section 787(3) of the Taxes Act 1988 (restriction of relief for payments of interest) for “section 403(7)” substitute “section 83(2)(b) of the Finance Act 1996 (claim to treat non-trading deficit as eligible for group relief)”.
- 45 In section 832(1) of the Taxes Act 1988 (interpretation), at the appropriate place insert—
 ““overseas property business” has the meaning given by section 65A(4) or 70A(4);”.
- 46 In Schedule 26 to the Taxes Act 1988 (allowance of reliefs against amounts apportioned in respect of profits of controlled foreign companies), in paragraph 1(3) (a) for “section 393A(1)” substitute “section 392A(1) or 393A(1)”.