SCHEDULES

SCHEDULE 4

Sections 15, 20, 22, 25, 29, 31, 43, Schedules 9, 12.

DEDUCTIONS FROM RENTS AND OTHER RECEIPTS FROM LAND

Deductions from rents: general rules

1 The deductions which may be made from rent to which a person (hereinafter referred to as " the person chargeable ") becomes entitled under a lease shall be such deductions of the amounts of payments made by him—

(a) in respect of maintenance, repairs, insurance or management;

(b) in respect of any services provided by him otherwise than y way of maintenance or repairs, being services which he was obliged to provide but in respect of which he received no separate consideration;

(c) in respect of rates or other charges on the occupier which he person chargeable was obliged to defray;

(d) in respect of any rent, rentcharge, ground annual, feu duty r other periodical payment reserved in respect of, or charged on or issuing out of, land,

as are provided by the following provisions of this Schedule.

2 Subject to the provisions of this Schedule, from rent to which the person chargeable becomes entitled in a year of assessment there may be deducted the amount of any such payment as aforesaid which became due in the year of assessment or at an earlier time falling within the currency of the lease, in so far as the payment—

(a) was made in respect of the premises comprised in the lease, and

(b) in the case of a payment for maintenance or repairs, was incurred by reason of dilapidation attributable to a period falling within the currency of the lease or, in the case of any other payment, was incurred in respect of such a period:

Provided that where the person chargeable became the landlord after the lease began, references in the foregoing provisions of this paragraph to the currency of the lease shall not include any time before he became the landlord.

3 (1) In the case of a lease at a full rent, the foregoing paragraph shall apply as if references to the currency of the lease included any period (hereinafter referred to as " a previous qualifying period ")—

(a) during which the person chargeable was the landlord in relation to a previous lease of the premises, being a lease at a full rent, or

(b) which was a void period beginning either with the termination of a previous such lease as aforesaid or with the acquisition by the person chargeable of the interest in the premises giving him the right to possession thereof,

so however that a period shall not be a previous qualifying period if it preceded a period ending before the beginning of the lease which was not itself a previous qualifying period.

(2) Where during any period the conditions necessary for the period to be a previous qualifying period were fulfilled as respects part of the premises, but not the whole, the period shall be treated as a previous qualifying period as respects that part of the premises only, and the foregoing sub-paragraph shall apply accordingly, any necessary apportionment being made of rent, payments or other matters.

(3) In this and the next following paragraph, " void period" means a period during which the person chargeable was not in occupation of the premises or any part thereof, but was entitled to possession thereof.

4 Subject to the provisions of this Schedule, in the case of a lease at a full rent, not being a tenant's repairing lease, there may also be deducted the amount of any payment made in respect of other premises by the person chargeable—

(a) in so far as that amount could be deducted under paragraphs 2 and 3 of this Schedule from rent to which he became entitled in the year of assessment under a lease of those other premises, being a lease at a full rent, or could be so deducted if that rent were not insufficient; or

(b) if any part of the year of assessment is, in respect of those other premises, a void period beginning with the termination of a lease at a full rent, in so far as the amount could be deducted as aforesaid if the lease had continued until the end of that period.

5 Where by reason of any change of circumstances a lease ceases to be, or becomes, a tenant's repairing lease or ceases to be, or becomes, a lease at a full rent, paragraphs 3 and 4 of this Schedule shall apply in relation to the lease as it subsists after the change of circumstances as if it were a new lease granted when the change occurred.

6 Where the person chargeable retains possession of a part of any premises and that part is used in common by persons respectively occupying other parts of the premises, the foregoing provisions of this Schedule shall apply as if a payment made in respect of the part used in common had been made in respect of those other parts.

Deductions from rents: land managed as one estate

7 (1) Where this paragraph applies to an estate for a year of assessment, the owner shall be treated—

(a) in relation to a part of the estate which for any period in the year is not comprised in a lease under which he is the landlord, as if he were entitled under a lease of that part at a full rent (not being a tenant's repairing lease) to rent for the said period, becoming due from day to day, at a rate per annum equal to the annual value of that part ascertained in accordance with Schedule 5 to this Act; and

(b) in relation to a part of the estate which for any period in he year is comprised in a lease under which he is the landlord, not being a lease at a full rent, as if the lease were at a full rent and the rent, so far as it relates to that part, were at a rate per annum not less than the annual value of that part ascertained in accordance with the said Schedule 5,

and the foregoing provisions of this Schedule shall apply accordingly:

Provided that—

(i) a payment relating to premises comprised in the estate shall not be deductible from rent in respect of premises not so comprised;

(ii) paragraph (a) above shall not apply to premises occupied by the owner wholly and exclusively for purposes connected with the management of the estate or for the purposes of a trade, profession or vocation.

(2) This paragraph shall apply to an estate if, at the end of the year 1962-63, the land then comprised therein was managed as one estate and the owner for the time being of the estate by notice in writing to the surveyor so elects, but such an election—

(a) must be made within twelve months after the end of the first year of assessment for which the person making it became entitled to make it or such further time as the Commissioners of Inland Revenue may allow ;

(b) except in the case of the first election that can be made under this paragraph, shall not have effect unless the like election has had effect as respects the immediately preceding ownership ;

(c) shall apply in relation to the estate throughout the owner ship of the person making it.

(3) Where in any year of assessment the estate comprises premises not included in it at the end of the year 1962-63, sub-paragraph (1) of this paragraph (except the proviso) shall apply in relation to the year of assessment as if the premises were not included in the estate in the year:

Provided that where at the end of the year 1962-63 the owner of the remainder of the estate, as then subsisting, was entitled under trusts arising under a settlement or on an intestacy, or was entitled (in Scotland) under a disposition by way of liferent and feu, to an interest such that, on the occurrence of some future event or events, he might become the owner of the said premises, this sub-paragraph shall not apply to the premises if at any time before the end of the year 1962-63 the premises and the remainder of the estate, as then subsisting, were together managed as one estate.

(4) In this paragraph " estate" means land in one ownership managed as one estate.

Deductions from rents: premiums etc.

8 (1) Where in relation to any premises—

(a) tax has become chargeable under the provisions of section 22 (except subsection (6)), 23 or 24 of this Act on any amount (disregarding any reduction in that amount under this paragraph), or

(b) tax would have become so chargeable on that amount but for the operation of section 22(6) of this Act or this paragraph, or but for any exemption from tax,

and, in respect of a lease granted out of, or disposition of, the lease, estate or interest in respect of which tax so became or would have become chargeable on the said amount (in this and the two following paragraphs referred to as " the amount chargeable on the superior interest"), a person would apart from this paragraph be chargeable under the said provisions on any amount (in this and the following paragraph referred to as " the later chargeable amount"), the amount on which he is so chargeable shall, where no claim is or can be made by him under section 22(6) of this Act, be the excess (if any) of the later chargeable amount over the appropriate fraction of the amount chargeable on the superior interest.

(2) Where a person would apart from this paragraph be so chargeable in respect of a lease or disposition which extends to a part only of the said premises, the amount on which he is so chargeable shall, where no claim is or can be made by him under section 22(6) of this Act, be the excess (if any) of the later chargeable amount over

so much of the appropriate fraction of the amount chargeable on the superior interest as, on a just apportionment, is attributable to that part of the premises.

(3) For the purposes of this and the following paragraph the appropriate fraction of the amount chargeable on the superior interest is the sum which bears to that amount the same proportion as the period in respect of which the later chargeable amount arose bears to the period in respect of which the amount chargeable on the superior interest arose, and for those purposes the period in respect of which an amount arose—

(a) where it arose under section 22 of this Act, shall be the period treated in computing the amount as being the duration of the lease; or

(b) where it arose under section 23 of this Act, shall be the period treated in computing the amount as being the duration of the lease remaining at the date of the assignment, or

(c) where it arose under section 24 of this Act, shall be the period beginning with the sale and ending on the date fixed under the terms of the sale as the date of the reconveyance or grant, or, if that date is not fixed, ending with the earliest date at which the reconveyance or grant could take place in accordance with the terms of the sale.

9 (1) Where in relation to any premises tax has or would have become chargeable as mentioned in sub-paragraph (1)(a) or (b) of the foregoing paragraph in respect of a lease, estate or interest, then, subject to the provisions of the following sub-paragraph, the person for the time being entitled to the lease, estate or interest shall be treated for the purpose of deductions under the foregoing provisions of this Schedule from rent receivable by him in respect of those or other premises as paying rent for those premises (in addition to any actual rent), becoming due from day to day, during any part of the period in respect of which the amount chargeable on the superior interest arose for which he was entitled to the lease, estate or interest, and in all bearing to that amount the same proportion as that part of the period bears to the whole.

(2) Where the foregoing paragraph has effect in relation to a lease granted out of, or disposition of, the lease, estate or interest in respect of which tax has or would have become so chargeable, sub-paragraph (1) above shall apply for the period in respect of which the later chargeable amount arose only if the appropriate fraction of the amount chargeable on the superior interest exceeds the later chargeable amount, and shall then apply as if the amount chargeable on the superior interest were reduced in the proportion which the said excess bears to the said appropriate fraction :

Provided that where the lease so granted, or the said disposition, extends to a part only of the premises, sub-paragraph (1) above and this sub-paragraph shall be applied separately in relation to that part and to the remainder of the premises, but as if for any reference to the amount chargeable on the superior interest there were substituted a reference to that amount proportionately adjusted.

10 (1) Where the amount chargeable on the superior interest arose under section 22(2) of this Act by reason of an obligation which included the carrying out of work in respect of which any allowance has fallen or will fall to be made under Part)(or Part)(I of the Act of 1952, paragraphs 8 and 9 of this Schedule shall apply as if the obligation had not included the carrying out of that work and the said amount had been calculated accordingly.

(2) Where an amount relevant for the purposes of paragraph 8 or 9 of this Schedule arose under section 24 of this Act and the reconveyance or grant in question takes place at a price different from that taken in calculating the amount or on a date different

from that taken in determining the period in respect of which the amount arose, that paragraph shall be deemed to have had effect (for all relevant years of assessment) as it would have had effect if the actual price or date had been so taken, and such adjustment of liability to tax shall be made, by means of an additional assessment or otherwise, as may be necessary and may be so made at any time at which it could be made if it related only to tax for the year of assessment in which the reconveyance or grant takes place.

Deductions from rents: payments made before 1964-65

11 (1) Except as provided by this and the following paragraph, no payment shall be deductible under the foregoing provisions of this Schedule if made before the beginning of the year 1964-65.

(2) If the cost to the owner of any premises of maintenance, repairs, insurance and management during the five years ending with the year 1963-64 exceeded the relief available to him in respect of those five years, the excess shall be treated for the purposes of the foregoing provisions of this Schedule as if it were a payment in relation to the premises made by him in the year 1964-65 in respect of dilapidation attributable to that year:

Provided that there shall be disregarded for the purposes of this sub-paragraph—

(a) any payment made during a period when the owner was in occupation of the premises, and any relief so far as it was available to him in respect of such a period ;

(b) any payment in respect of which a deduction may be made by virtue of paragraph 12 of this Schedule ;

(c) any payment for works falling within section 101(2) of the Act of 1952 (by virtue of which " maintenance" includes the replacement of farm buildings etc.), being a payment made after the end of the five years which, under section 101(7) of that Act, were treated as the five years preceding the year 1963-64, or would have been so treated if a claim under section 101 of that Act could have, and had, been made for that year,

and where during any period the owner was in occupation of a part only of the premises there shall be disregarded for those purposes so much of any payment made during the period, or relief available to him in respect of the period, as is attributable to that part.

(3) Where relief available in respect of any land managed as one estate fell to be computed in accordance with section 101(4) of the Act of 1952, payments made in respect of the estate, and the relief so available, shall for the purposes of the foregoing sub-paragraph be treated as apportioned between the premises comprised in the estate in accordance with their annual values for purposes of Schedule A, but so that as respects any premises in relation to which the owner was chargeable under section 175 of the Act of 1952 (excess rents) the annual value shall be taken to be that determined as mentioned in subsection (1) of that section.

(4) References in this paragraph to relief available to a person in respect of any premises are references to relief which was or, on a claim in that behalf, could have been allowed to him in respect of the premises under sections 99 to 101 or 176(1)(g) of the Act of 1952.

12 (1) If, in respect of any payment such as is mentioned in paragraph 1 of this Schedule made by a person in relation to any premises before the beginning of the year

1964-65, a loss is by virtue of section 346 of the Act of 1952 (relief in respect of losses under Case VI of Schedule D) carried forward to that year, the amount of the loss shall be treated for the purposes of the foregoing provisions of this Schedule as if it were a like payment made by that person in respect of the premises in, and in respect of, that year.

(2) Where by virtue of sub-paragraph (1) above a deduction falls to be made in any year it shall be made notwithstanding anything in subsection (3) of the said section 346 (which requires relief under that section to be given as far as possible from the first subsequent Case VI assessment), and relief shall not be given under that section in respect of a loss in so far as a deduction in respect of it is made under this paragraph.

Deductions from other receipts

13 (1) Subject to the provisions of this Schedule, where the sum to which a person becomes entitled in the year of assessment is a sum other than rent payable under a lease there shall be deducted from that sum such amounts (if any) as are expressed to be deductible under the following sub-paragraph.

(2) There shall be deductible—

(a) so much of any payment made by that person as was made in respect of maintenance, repairs, insurance or management of premises to which the said sum relates and constituted an expense of the transaction under which he became entitled to that sum ;

(b) so much of any rent, rentcharge, ground annual, feu duty or other periodical payment made by that person as was reserved in respect of, or was charged upon or issued out of, premises to which the sum relates and constituted an expense of that transaction ;

(c) so much of any other payment made by that person as constituted an expense of that transaction, not being an expense of a capital nature ;

(d) where, in or before the year, that person entered into any like transaction, any amount which, under the foregoing sub-paragraphs, is deductible from a sum to which he is entitled under that like transaction in the year, or was deductible from a sum to which he was so entitled in a previous year of assessment but has not been deducted.

14 No payment shall be deductible under the foregoing paragraph if made before the beginning of the year 1964-65 :

Provided that this paragraph shall not prevent the deduction of a payment in so far as a loss in respect of the payment is by virtue of section 346 of the Act of 1952 (relief in respect of losses under Case VI of Schedule D) carried forward to that year, and where the deduction falls to be made it shall be made notwithstanding anything in subsection (3) of that section (which requires relief to be given as far as possible from the first subsequent Case VI assessment), and to the extent that it is made relief shall not be given under that section.

15 (1) Where the person entitled to possession of any land is in the practice of granting sporting rights over the land for payment, but in any year of assessment such rights are for any reason not granted by him, the aggregate of any amounts paid by him which, if such rights had been granted in the year, would have been deductible under paragraph 13 above from payments receivable by him in respect of the grant shall be treated for the purposes of paragraph 4 of this Schedule as a deduction which by

virtue of paragraph 2 thereof might have been made by him from rent to which he was entitled for that year under a lease of the land, being a lease at a full rent:

Provided that if in the year sporting rights over the land are exercised by that person or by any other person at his invitation or, where the first mentioned person is a company to which section 245 of the Act of 1952 applies, by any person who is a director or member of the company within the meaning of Chapter III of Part IX of that Act, the aggregate of the said amounts shall be treated as reduced by an amount equal to the price which might reasonably be expected to have been paid for that exercise of the rights if the person exercising them had had to give full consideration therefor.

(2) For the purposes of the proviso to the foregoing sub-paragraph, an exercise of sporting rights shall be disregarded if it gives rise to a charge to tax under Schedule E by virtue of section 161 (benefits to directors etc.) of the Act of 1952.

(3) In this paragraph " sporting rights " means rights of fowling, shooting or fishing, or of taking or killing game, deer or rabbits.

Expenditure on sea walls

16 (1) Where in any year of assessment the owner or tenant of any premises incurs expenditure in the making of any sea wall or other embankment necessary for the preservation or protection of the premises against the encroachment or overflowing of the sea or any tidal river, he shall be treated for the purposes of this Schedule as making, in that year of assessment and in each of the succeeding twenty years of assessment, a payment in relation to the premises preserved or protected by the embankment of an amount equal to a twenty-first part of the expenditure and incurred in respect of dilapidation attributable to the year.

(2) Where the whole of that person's interest in the premises, or any part thereof, is transferred, whether by operation of law or otherwise, to some other person, then—

(a) the amount of the payment which he would be so treated as making for the year of assessment in which the transfer takes place shall be treated as being made partly by the transferor and partly by the transferee, as may be just; and

(b) the transferee shall, to the exclusion of the transferor, be treated in any subsequent year, where the interest transferred is in the whole of the premises, as having made the whole of the payment for that year, and where the interest transferred is in part .only of the premises, as having made so much of the payment for the year as is properly referable to that part of the premises.

For the purposes of this sub-paragraph, where an interest in any premises is a lease and that lease comes to an end, that interest shall be deemed to have been transferred—

(i) if an incoming lessee makes any payment to the outgoing lessee in respect of the embankment in question, to the incoming lessee ; and

(ii) in any other case, to the owner of the interest in immediate reversion on the lease and, in relation to Scotland, the expression " the owner of the interest in immediate reversion on the lease" shall be construed as a reference to the landlord.

(3) In relation to expenditure in respect of which an allowance under section 94(1)(c) of the Act of 1952 would, but for the provisions of this Act, have fallen to

be made in respect of the premises for the year 1964-65, the foregoing provisions of this paragraph shall apply as if the expenditure had been incurred in the year of assessment following that in which it was actually incurred and, so far as the expenditure was incurred in repairing the embankment in question, shall apply as if it had been incurred in making it, but those provisions shall not otherwise apply to expenditure incurred before the beginning of the year 1964-65:

Provided that the person who under the foregoing provisions of this sub-paragraph would be treated, in respect of expenditure incurred in repairing the embankment, as having made in the year 1964-65 a payment as mentioned in sub-paragraph (1) of this paragraph may before the expiration of the year 1965-66 by notice in writing to the surveyor claim that so much of that expenditure as exceeded the total allowances made in respect of it under the said section 94(1)(c) shall instead be treated for the purposes of this Schedule as if it had been an amount paid by him in respect of the maintenance of the premises preserved or protected by the embankment in, and in respect of, the year 1964-65.

(4) This paragraph shall not apply in relation to any expenditure in respect of which an allowance has been made under Part X or Part XI of the Act of 1952.

Supplemental

17 (1) Subject to the provisions of this paragraph, where a sum or part of a sum deductible under the foregoing provisions of this Schedule can be deducted for the year of assessment in which the sum is paid it shall be so deducted, and where it cannot it shall be deducted for the earliest year of assessment for which it can be deducted.

(2) Where for any year of assessment the amount from which deductions can be made under the foregoing provisions of this Schedule is sufficient to allow the' deduction therefrom of some, but not all, of different sums or parts of sums deductible under those provisions, the sum or parts to be deducted for that year shall in the aggregate be equal to the said amount, and subject to that requirement shall be such as the person whose liability to tax is in question may choose.

(3) No deduction shall be made under this Schedule in respect of a payment made by a person—

(a) to the extent to which the payment has been or will be balanced by the receipt of insurance moneys, or recovered from or in any other manner borne by some other person, otherwise than by means of an amount on the profits or gains arising from which the first-mentioned person would be chargeable under Case VIII, or

(b) if the payment is payable under deduction of tax.

(4) An amount or pant of an amount shall not be deducted under this Schedule more than once from any sum or from more than one sum, and shall not in any case be deducted thereunder if it has been otherwise allowed as a deduction in computing the income of any person for purposes of income tax.

(5) Where, on account of a payment made in any year of assessment, a deduction falls to be made under this Schedule from any rents or receipts to which the person making the payment became entitled in a previous year, all such adjustments of liability to tax shall be made, by repayment or otherwise, as may be necessary to give effect to the deduction.

18 This Schedule has effect subject to the provisions of sections 476 and 477 of the Act of 1952.

19 In this Schedule references to a lease extend only to a lease conferring a right, as against the person whose interest is subject to the lease, to the possession of premises;

" premises " includes any land ;

" rent " includes a payment made by the tenant to defray the cost of work of maintenance of or repairs to the demised premises, not being work required by the lease to be carried out by the tenant; and

" tenant's repairing lease " means a lease where the lessee is under an obligation to maintain and repair the whole, or substantially the whole, of the premises comprised in the lease,

and for the purposes of this Schedule a lease shall be taken to be at a full rent if the rent reserved under the lease (including an appropriate sum in respect of any premium under the lease) is sufficient, taking one year with another, to defray the cost to the lessor of fulfilling his obligations under the lease and of meeting any expenses of maintenance, repairs, insurance and management of the premises subject to the lease which fall to be borne by him.