



Finance Act 1965

1965 CHAPTER 25

PART III

CAPITAL GAINS.

General.

19 Taxation of capital gains.

- (1) Tax shall be charged in accordance with this Act in respect of capital gains, that is to say chargeable gains computed in accordance with this Act and accruing to a person on the disposal of assets.
- (2) In the circumstances prescribed by the provisions of Part IV of this Act (chargeable gains accruing to companies and certain other bodies and associations) the tax shall be chargeable in accordance with those provisions, and all the provisions of this Part of this Act have effect subject to those provisions.
- (3) Subject to the said provisions, a tax, to be called capital gains tax, shall be assessed and charged for the year 1965-66 and for subsequent years of assessment in respect of chargeable gains accruing in those years, and shall be so charged in accordance with the following provisions of this Part of this Act.

Capital gains tax.

20 Capital gains tax.

- (1) Subject to any exceptions provided by this Act, a person shall be chargeable to capital gains tax in respect of chargeable gains accruing to him in a year of assessment during any part of which he is resident in the United Kingdom, or during which he is ordinarily resident in the United Kingdom.
- (2) Subject to any such exceptions a person shall also be chargeable to capital gains tax in respect of chargeable gains accruing to him in a year of assessment in which he is

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not resident and not ordinarily resident in the United Kingdom but is carrying on a trade in the United Kingdom through a branch or agency, and shall be so chargeable on chargeable gains accruing on the disposal—

- (a) of assets situated in the United Kingdom and used in or for the purposes of the trade at or before the time when the capital gain accrued, or
- (b) of assets situated in the United Kingdom and used or held for the purposes of the branch or agency at or before that time, or assets acquired for use by or for the purposes of the branch or agency ;

Provided that this subsection shall not apply to a person who, by virtue of the provisions of Part XIII of the Income Tax Act 1952 (double taxation agreements), is exempt from income tax chargeable for the year of assessment in respect of the profits or gains of the branch or agency.

- (3) Subject, in the case of an individual, to the next following section, and subject to section 82 of this Act, the rate of capital gains tax shall be thirty per cent.
- (4) Capital gains tax shall be charged at the said rate on the total amount of chargeable gains accruing to the person chargeable in the year of assessment, after deducting any allowable losses accruing to that person in that year of assessment and, so far as they have not been allowed as a deduction from chargeable gains accruing in any previous year of assessment, any allowable losses accruing to that person in any previous year of assessment (not earlier than the year 1965-66).
- (5) In the case of a woman who in a year of assessment is a married woman living with her husband any allowable loss accruing in that year of assessment which, under the last foregoing subsection, would be deductible from the chargeable gains accruing in that year of assessment to the one but for an insufficiency of chargeable gains shall, for the purposes of that subsection, be deductible from chargeable gains accruing in that year of assessment to the other:

Provided that this subsection shall not apply in relation to losses accruing in a year of assessment to either if, before 6th July in the year next following that year of assessment, an application is made by the man or the wife to the inspector in such form and manner as the Board may prescribe.

- (6) Capital gains tax assessed on any person in respect of gains accruing in any year shall be payable by that person at or before the expiration of the three months following that year, or at the expiration of a period of thirty days beginning with the date of making the assessment, whichever is the later.
- (7) In the case of individuals resident or ordinarily resident but not domiciled in the United Kingdom, capital gains tax shall not be charged in respect of gains accruing to them from the disposal of assets situated outside the United Kingdom (that is chargeable gains accruing in the year 1965-66 or a later year of assessment) except that the tax shall be charged on the amounts (if any) received in the United Kingdom in respect of those chargeable gains, any such amounts being treated as gains accruing when they are received in the United Kingdom; and accordingly losses accruing on the disposal of assets situated outside the United Kingdom to any such individual shall not be allowable under this Part of this Act.

21 Capital gains accruing to an individual: alternative charge to tax.

- (1) If this section would result in an individual being chargeable to a reduced amount of capital gains tax for any year of assessment in any part of which he was resident in the

United Kingdom, or in which he was ordinarily resident in the United Kingdom, the amount of capital gains tax to which he is chargeable for that year of assessment shall, instead of being the amount arrived at under the last foregoing section, be calculated as an amount equal to the amount of income tax (including surtax) to which he would be chargeable if, in addition to any other liability to income tax, he was chargeable to income tax for that year under Case VI of Schedule D—

- (a) where the amount on which he would have been chargeable to capital gains tax for that year under the last foregoing section does not exceed five thousand pounds, on a sum equal to one-half of that amount, and
 - (b) where that amount exceeds five thousand pounds, on a sum equal to two thousand five hundred pounds plus the excess of that amount over five thousand pounds.
- (2) That amount of income tax (including surtax) shall be arrived at on the assumption that the income to which the individual would be so chargeable to income tax—
- (a) is not available for set off under any of the provisions of the Income Tax Acts against any loss, or against any payments which may be made out of profits or gains brought into charge for tax, and is not available for the purpose of any other relief under the Income Tax Acts, other than the personal reliefs, and accordingly it shall be assumed that all such provisions of the Income Tax Acts are applied without regard to the income so chargeable under Case VI of Schedule D,
 - (b) does not constitute earned income, as being income within section 525(1)(W) of the Income Tax Act 1952 (income from property attached to or forming part of the emoluments of an office or employment) or within any other provision of the Income Tax Acts,
 - (c) is to be treated, for the purpose of comparing in accordance with subsection (1) of this section the amount of income tax which would be chargeable under this section with the alternative charge to capital gains tax, as the highest part of the individual's income for the year,

and paragraph (c) of this subsection shall have effect notwithstanding any provision of the Income Tax Acts directing other income to be treated as the highest part of the individual's total income.

In this subsection " the personal reliefs " means the reliefs under Part VIII of the Income Tax Act 1952, as applied for the purposes of income tax at the standard rate or surtax but excluding relief under sections 219 and 225 (premiums on life assurance policies).

- (3) The provisions of this section shall not affect the provisions of the last foregoing section as to the circumstances in which an allowable loss accruing in one year may be deducted from chargeable gains accruing in any other year.
- (4) If capital gains tax is chargeable under the last foregoing section in respect of chargeable gains accruing to a married woman who in the year of assessment is a married woman living with her husband, then, whether or not the husband is or would be chargeable to capital gains tax for that year of assessment under the last foregoing section, and whether or not the married woman is separately assessed to income tax at the standard rate or to surtax—
- (a) in making the comparison under subsection (1) of this section account shall be taken of income tax chargeable on the husband, as well as of income tax chargeable on the woman, and

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- (b) the reference to the individual's income in subsection (2)(c) of this section shall be a reference to the husband's income (including income of his wife which under the Income Tax Acts is deemed to be his income), and
- (c) if both the married woman and her husband are chargeable to capital gains tax for that year of assessment the comparison under subsection (1) of this section shall be between the sum of the capital gains tax so chargeable on them under the last foregoing section and the amount to which the husband would be chargeable to income tax (including surtax) if, in addition to any other liability to income tax, he was chargeable to income tax for that year of assessment under Case VI of Schedule D—
 - (i) where the aggregate amount to which he and his wife would have been chargeable to capital gains tax for that year under the last foregoing section does not exceed five thousand pounds, on a sum equal to one-half of that amount, and
 - (ii) where that aggregate amount exceeds five thousand pounds, on a sum equal to two thousand five hundred pounds plus the excess of that aggregate amount over five thousand pounds,
 and
- (d) account shall be taken of the provisions of subsection (5) of the last foregoing section with any necessary adjustment where an application is made under the proviso to that subsection,

and any reduction in capital gains tax effected by paragraph (c) above shall be apportioned to the husband and wife in proportion to the respective amounts on which they would, under the last foregoing section, be chargeable to capital gains tax for the year of assessment.

- (5) Any chargeable gain which accrued to an individual in a year of assessment on the disposal of an asset which the individual acquired (otherwise than as legatee) not more than two years before the disposal from a person who, in the terms of paragraph 21 of Schedule 7 to this Act, was a person connected with the individual shall be left out of account for the purposes of this section, and—
 - (a) capital gains tax shall be charged on the amount of that chargeable gain in accordance with the last foregoing section,
 - (b) no loss shall be deductible under subsection (4) of the last foregoing section from that amount if relief is given under this section in respect of any other chargeable gain which accrued to the individual or, in accordance with subsection (4) of this section, to the husband or wife of the individual, in the said year of assessment.

Chargeable gains.

22 Disposal of assets and computation of gains.

- (1) All forms of property shall be assets for the purposes of this Part of this Act, whether situated in the United Kingdom or not, including—
 - (a) options, debts and incorporeal property generally, and
 - (b) any currency other than sterling, and
 - (c) any form of property created by the person disposing of it, or otherwise coming to be owned without being acquired.
- (2) For the purposes of this Part of this Act—

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- (a) references to a disposal of an asset include, except where the context otherwise requires, references to a part disposal of an asset, and
 - (b) there is a part disposal of an asset where an interest or right in or over the asset is created by the disposal, as well as where it subsists before the disposal, and generally, there is a part disposal of an asset where, on a person making a disposal, any description of property derived from the asset remains undisposed of.
- (3) Subject to subsection (6) of this section, and to the exceptions in this Part of this Act, there is for the purposes of this Part of this Act a disposal of assets by their owner where any capital sum is derived from assets notwithstanding that no asset is acquired by the person paying the capital sum, and this subsection applies in particular to—
- (a) capital sums received by way of compensation for any kind of damage or injury to assets or for the loss, destruction or dissipation of assets or for any depreciation or risk of depreciation of an asset,
 - (b) capital sums received under a policy of insurance of the risk of any kind of damage or injury to, or the loss or depreciation of, assets,
 - (c) capital sums received in return for forfeiture or surrender of rights, or for refraining from exercising rights, and
 - (d) capital sums received as consideration for use or exploitation of assets.
- (4) Subject to the provisions of this Part of this Act, a person's acquisition of an asset and the disposal of it to him shall for the purposes of this Part of this Act be deemed to be for a consideration equal to the market value of the asset—
- (a) where he acquires the asset otherwise than by way of a bargain made at arm's length and in particular where he acquires it by way of gift or by way of distribution from a company in respect of shares in the company, or
 - (b) where he acquires the asset wholly or partly for a consideration that cannot be valued, or in connection with his own or another's loss of office or employment or diminution of emoluments, or otherwise in consideration for or recognition of his or another's services or past services in any office or employment or of any other service rendered or to be rendered by him or another, or
 - (c) where he acquires the asset as trustee for creditors of the person making the disposal.
- (5) In relation to assets held by a person as nominee for another person, or as trustee for another person absolutely entitled as against the trustee, or for any person who would be so entitled but for being an infant or other person under disability (or for two or more persons who are or would be jointly so entitled), this Part of this Act shall apply as if the property were vested in, and the acts of the nominee or trustee in relation to the assets were the acts of, the person or persons for whom he is the nominee or trustee (acquisitions from or disposals to him by that person or persons being disregarded accordingly).
- (6) The conveyance or transfer by way of security of an asset or of an interest or right in or over it, or transfer of a subsisting interest or right by way of security in or over an asset (including a retransfer on redemption of the security), shall not be treated for the purposes of this Part of this Act as involving any acquisition or disposal of the asset.
- (7) Where a person entitled to an asset by way of security or to the benefit of a charge or incumbrance on an asset deals with the asset for the purpose of enforcing or giving effect to the security, charge or incumbrance his dealings with it shall be treated for the purposes of this Part of this Act as if they were done through him as nominee by the

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person entitled to it subject to the security, charge or incumbrance; and this subsection shall apply to the dealings of any person appointed to enforce or give effect to the security, charge or incumbrance as receiver and manager or judicial factor as it applies to the dealings of the person entitled as aforesaid.

- (8) An asset shall be treated as having been acquired free of any interest or right by way of security subsisting at the time of any acquisition of it, and as being disposed of free of any such interest or right subsisting at the time of the disposal; and where an asset is acquired subject to any such interest or right the full amount of the liability thereby assumed by the person acquiring the asset shall form part of the consideration for the acquisition and disposal in addition to any other consideration.
- (9) The amount of the gains accruing on the disposal of assets shall be computed in accordance with Part I of Schedule 6. to this Act, and subject to the further provisions in Schedules 7. and 8 to this Act, and in this section " capital sum " means any money or money's worth which is not excluded from the consideration taken into account in the computation under the said Part I of Schedule 6 to this Act.
- (10) Every gain accruing after 6th April 1965 shall, except so far as otherwise expressly provided by this Part of this Act, be a chargeable gain, but subject to the provisions of Part II of Schedule 6 to this Act (which restricts the amount of chargeable gains accruing on the disposal of assets owned on 6th April 1965).

23 Losses.

- (1) Except as otherwise expressly provided, the amount of a loss accruing on a disposal of an asset shall be computed in the same way as the amount of a gain accruing on a disposal is computed.
- (2) Except as otherwise expressly provided, all the provisions of this Part of this Act which distinguish gains which are chargeable gains from those which are not, or which make part of a gain a chargeable gain, and part not, shall apply also to distinguish losses which are allowable losses from those which are not, and to make part of a loss an allowable loss, and part not; and references in this Part of this Act to an allowable loss shall be construed accordingly.
- (3) Subject to the provisions of this Part of this Act and, in particular, to paragraph 14 of Schedule 7, the occasion of the entire loss, destruction, dissipation or extinction of an asset shall, for the purposes of this Part of this Act, constitute a disposal of the asset whether or not any capital sum by way of compensation or otherwise is received in respect of the destruction, dissipation or extinction of the asset.
- (4) If, on a claim by the owner of an asset, the inspector is satisfied that the value of an asset has become negligible, he may allow the claim and thereupon this Part of this Act shall have effect as if the claimant had sold, and immediately re-acquired, the asset for a consideration of an amount equal to the value specified in the claim.
- (5) For the purposes of the two last foregoing subsections a building and any permanent or semi-permanent structure in the nature of a building, may be regarded as an asset separate from the land on which it is situated, but where either of those subsections applies in accordance with this subsection, the person deemed to make the disposal of the building shall be treated as if he had also sold, and immediately re-acquired, the site of the building or structure (including in the site any land occupied for purposes ancillary to the use of the building or structure) for a consideration equal to its market value at that time.

- (6) A loss accruing to a person in a year of assessment during no part of which he is resident or ordinarily resident in the United Kingdom shall not be an allowable loss for the purposes of this Part of this Act unless, under section 20(2) of this Act, he would be chargeable to capital gains tax in respect of a chargeable gain if there had been a gain instead of a loss on that occasion.
- (7) Except as provided by the next following section, an allowable loss accruing in a year of assessment shall not be allowable as a deduction from chargeable gains accruing in any earlier year of assessment, and relief shall not be given under this Part of this Act more than once in respect of any loss or part of a loss, and shall not be given under this Part of this Act if and so far as relief has been or may be given in respect of it under the Income Tax Acts.

24 Death.

- (1) On the death of an individual all the assets of which he was competent to dispose shall for the purposes of this Part of this Act be deemed to be disposed of by him at the date of death, and acquired by the personal representatives or other person on whom they devolve, for a consideration equal to their market value at that date.
- (2) Subject to section 34 of this Act, the gains which accrue in consequence of subsection (1) of this section, together with any gains accruing to the deceased by reason of the disposal by him of any asset by way of donatio mortis causa, shall be aggregated and only so much of that aggregate as exceeds five thousand pounds shall constitute chargeable gains.

In arriving at the aggregate—

- (a) the respective amounts of the gains shall be computed in accordance with the provisions of this Act (other than this section) fixing the amount of chargeable gains, and
 - (b) any allowable loss accruing in consequence of subsection (1) of this section, or in consequence of any donatio mortis causa, shall be deducted,
- and the provisions of this subsection shall not affect the computation of the amount of any allowable loss.
- (3) For the purposes of section 20(4) of this Act chargeable gains under subsection (2) of this section shall be included in the gains accruing to the deceased in the year of assessment in which the death occurs.
 - (4) For the purposes of the said section 20(4) and of the next following subsection allowable losses sustained in consequence of subsection (1) of this section shall be included in the losses sustained by the deceased in the year of assessment in which the death occurs so far as those losses have not been taken into account under subsection (2) of this section.
 - (5) Allowable losses sustained by an individual in the year of assessment in which he dies may, so far as they cannot be deducted from chargeable gains accruing in that year, be deducted from chargeable gains accruing to the deceased in the three years of assessment preceding the year of assessment in which the death occurs, taking chargeable gains accruing in a later year before those accruing in an earlier year.
 - (6) In relation to property forming part of the estate of a deceased person the personal representatives shall for the purposes of this Part of this Act be treated as being a single and continuing body of persons (distinct from the persons who may from time

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to time be the personal representatives), and that body shall be treated as having the deceased's residence, ordinary residence, and domicile at the date of death.

- (7) On a person acquiring any asset as legatee—
- (a) no chargeable gain shall accrue to the personal representatives, and
 - (b) the legatee shall be treated as if the personal representatives' acquisition of the asset had been his acquisition of it.
- (8) Allowable losses which accrue to the personal representatives of a deceased person in the period of three years from the death, may, so far as they cannot otherwise be deducted from chargeable gains, be deducted from chargeable gains accruing to the deceased in the year of assessment in which the death occurs, or in the preceding three years of assessment, taking chargeable gains accruing in a later year before those accruing in an earlier year.
- (9) In this section references to assets of which a deceased person was competent to dispose are references to assets of the deceased which (otherwise than in right of a power of appointment or of the testamentary power conferred by statute to dispose of entailed interests) he could, if of full age and capacity, have disposed of by his will, assuming that all the assets were situated in England and, if he was not domiciled in the United Kingdom, that he was domiciled in England.
- (10) For the purposes of this section in its application to Scotland, where the deceased person was an heir of entail in possession of an entailed estate, whether sui iuris or not, or a proper liferenter of an estate, he shall be deemed to have been a person competent to dispose of such estate.
- (11) If not more than two years after a death any of the dispositions of the property of which the deceased was competent to dispose, whether effected by will, or under the law relating to intestacies, or otherwise, are varied by a deed of family arrangement or similar instrument, this section shall apply as if the variations made by the deed or other instrument were effected by the deceased, and no disposition made by the deed or other instrument shall constitute a disposal for the purposes of this Part of this Act.

25 Settled property.

- (1) In relation to settled property, the trustees of the settlement shall for the purposes of this Part of this Act be treated as being a single and continuing body of persons (distinct from the persons who may from time to time be the trustees), and that body shall be treated as being resident and ordinarily resident in the United Kingdom unless the general administration of the trusts is ordinarily carried on outside the United Kingdom and the trustees or a majority of them for the time being are not resident or not ordinarily resident in the United Kingdom:

Provided that a person carrying on a business which consists of or includes the management of trusts, and acting as trustees of a trust in the course of that business, shall be treated in relation to that trust as not resident in the United Kingdom if the whole of the settled property consists of or derives from property provided by a person not at the time (or, in the case of a trust arising under a testamentary disposition or on an intestacy or partial intestacy, at his death) domiciled, resident or ordinarily resident in the United Kingdom.

- (2) A gift in settlement, whether revocable or irrevocable, is a disposal of the entire property thereby becoming settled property notwithstanding that the donor has some

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interest as a beneficiary under the settlement and notwithstanding that he is a trustee, or the sole trustee, of the settlement.

- (3) On the occasion when a person becomes absolutely entitled to any settled property as against the trustee all the assets forming part of the settled property to which he becomes so entitled shall be deemed to have been disposed of by the trustee, and immediately reacquired by him in his capacity as a trustee within section 22(5) of this Act, for a consideration equal to their market value.
- (4) On the termination at any time after 6th April 1965 of a life interest in possession in all or any part of settled property, all the assets forming part of the settled property, except any which at that time cease to be settled property, shall be deemed for the purposes of this Part of this Act at that time to be disposed of and immediately reacquired by the trustee for a consideration equal to their market value.
- (5) If, in the case of the death of any individual, no relief is given under subsection (2) of the last foregoing section, or relief is so given in respect of an aggregate sum which is less than the amount available for relief under the said subsection (2), then that amount or, as the case may be, the difference between that amount and the aggregate sum in respect of which relief is so given shall be available for giving relief under this subsection, and—
 - (a) any gains which accrue to the trustees of a settlement on the disposal of settled property deemed to be effected at the date of the death in accordance with subsection (3) or subsection (4) of this section on the termination of a life interest by the death, or otherwise in consequence of the death, shall be aggregated and only so much of that aggregate as exceeds the amount so available for giving relief under this subsection shall constitute chargeable gains,
 - (b) if subsection (6) below has operated to prevent subsection (4) applying on the date of the death paragraph (a) above shall apply to gains accruing on the disposal of the settled property deemed to be effected on the next occasion (if any) when subsection (4) applies,
 - (c) in arriving at the aggregate—
 - (i) the respective amounts of the gains shall be computed in accordance with the provisions of this Act (other than this subsection) fixing the amount of chargeable gains, and
 - (ii) any allowable loss which accrues on the disposal shall be deducted, and the provisions of this subsection shall not affect the computation of the amount of any allowable loss,
 - (d) if this subsection applies in relation to chargeable gains accruing to more than one body of trustees on the same death, the amount available for relief under this subsection shall be apportioned between those bodies of trustees according to the respective values of the settled property which those trustees are deemed respectively to have disposed of,

and the references in this subsection to the amount available for relief under subsection (2) of the last foregoing section are references to five thousand pounds, or as the case may be to that amount as reduced (or extinguished) under section 34 of this Act.

- (6) If on any occasion subsection (4) of this section is applied in relation to a settlement the interval between that occasion and the next occasion on which it applies shall not be less than fifteen years, but where this subsection has operated to prevent the application of the said subsection (4), the said subsection (4) shall apply in relation

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to the settlement at the end of fifteen years from the occasion on which it last applied as if a life interest in possession in the settled property had terminated at the end of those fifteen years.

- (7) If during the subsistence of a settlement there is a period of more than fifteen years throughout which there is no life interest in possession in the settled property, then at the end of the first fifteen years of that period, and of each succeeding fifteen years of that period, subsections (4) and (6) of this section shall apply as if a life interest in possession in the settled property had then terminated:

Provided that this subsection shall not apply to settled property if it and the income from it is wholly or primarily applicable for educational, cultural or recreational purposes, and the persons benefiting from the application for those purposes are confined to members of an association of persons for whose benefit the property was settled, not being persons all or most of whom are, in the terms of paragraph 21 of Schedule 7 to this Act, connected persons.

- (8) On the occasion when a person becomes absolutely entitled to any settled property as against the trustee, any allowable loss which has accrued to the trustee in respect of property which: is, or is represented by, the property to which that person so becomes entitled (including any allowable loss carried forward to the year of assessment in which that occasion falls), being £ loss which cannot be deducted from chargeable gains accruing to the trustee in that year, but before that occasion, shall be treated as if it were an allowable loss accruing at that time to the person becoming so entitled, instead of to the trustee.
- (9) If tax assessed on the trustees, or any one trustee, of a settlement in respect of a chargeable gain accruing to the trustees is not paid within six months from the date when it becomes payable by the trustees or trustee, and before or after the expiration of that period of six months the asset in respect of which the chargeable gain accrued, or any part of the proceeds of sale of that asset, is transferred by the trustees to a person who as against the trustees is absolutely entitled to it, that person may at any time within two years from the time when the tax became payable be assessed and charged (in the name of the trustees) to an amount of capital gains tax not exceeding tax chargeable on an amount equal to the amount of the chargeable gain and, where part only of the asset or of the proceeds was transferred, not exceeding a proportionate part of that amount.
- (10) In this section " life interest " in relation to a settlement—
- (a) includes a right under the settlement to the income of, or the use or occupation of, settled property for the life of another or for any other period which will or may terminate before all the settled property becomes property to which some person is absolutely entitled as against the trustee,
 - (b) does not include any right which is contingent on the exercise of the discretion of the trustee or the discretion of some other person, and
 - (c) does not include an annuity, notwithstanding that the annuity is payable out of or charged on settled property or the income of settled property.
- (11) For the purposes of this section, where part of the property comprised in a settlement is vested in one trustee or set of trustees and part in another (and in particular where settled land within the meaning of the Settled Land Act 1925 is vested in the tenant for life and investments representing capital money are vested in the trustees of the settlement), they shall be treated as together constituting and, in so far as they act separately, as acting on behalf of a single body of trustees.

- (12) If there is a life interest in a part of the settled property and, where that is a life interest in income, there is no right of recourse to, or to the income of, the remainder of the settled property, the part of the settled property in which the life interest subsists shall while it subsists be treated for the purposes of subsections (4), (5), (6) and (7) of this section as being settled property under a separate settlement.
- (13) Subsection (7) of this section shall apply in relation to a settlement subsisting on 6th April 1965 as follows—
- (a) in the case of a settlement created on or after 6th April 1950, any period before 6th April 1965 shall be taken into account as it would if falling after that date, and
 - (b) in the case of a settlement created before 6th April 1950 the time taken into account for the purposes of the said subsection (7) shall begin with the fifteenth anniversary of the date of creation of the settlement (whether it is the first or any subsequent fifteenth anniversary) falling in the period of fifteen years from 6th April 1950 to 5th April 1965,
- but subsection (4) of this section shall not be applied by virtue of this subsection (taken together with subsection (7)) on a date falling before 7th April 1967.

26 Estate duty.

- (1) In determining the value of an estate for the purposes of estate duty allowance shall be made for capital gains tax chargeable on chargeable gains accruing on the death in consequence of the provisions of section 24(1) (as well as of any amount of capital gains tax owed by the deceased).
- (2) In estimating the principal value of any settled property passing on a death, whether it continues to be settled property or not, an allowance shall be made for any capital gains tax chargeable in consequence of the death in respect of the settled property, so far as that tax falls to be paid out of the property so passing or to be borne by any person to whom the property so passes for any beneficial interest in possession.
- (3) Where the principal value of an asset passing on a death falls, for the purposes of estate duty leviable on the death, to be ascertained under section 7(5) of the Finance Act 1894 (under which the asset's principal value is to be what it would have fetched if sold in the open market) and for the purposes of—
- (a) a conclusive assessment to capital gains tax chargeable in consequence of the death, or
 - (b) a conclusive decision on a claim for an allowable loss accruing in consequence of the death,
- the market value of the asset on the date of death has been fixed, the market value so fixed shall be taken to be the principal value of the asset for the purposes of the said section 7(5).
- (4) Subsection (3) of this section shall not apply where the way in which the principal value of an asset is to be ascertained under the said section 7(5) of the Finance Act 1894 is modified by any provision in the enactments relating to estate duty which has no corresponding provision in this Part of this Act.
- (5) If in an appeal against an assessment to capital gains tax chargeable in consequence of a death, or in an appeal against a decision on a claim for an allowable loss accruing in consequence of a death, the value fixed for the purposes of the assessment, or of the

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decision on the claim, as the market value of an asset on the date of the death is being or can be questioned, any person who would be entitled to be a party to proceedings questioning that market value in connection with estate duty on the death shall be entitled to be a party to the appeal so far as the proceedings relate to that question.

- (6) For the purposes of this section an assessment to capital gains tax, and a decision on a claim for an allowable loss, is conclusive when it can no longer be varied either on appeal or by the decision of a court, but if, after it has become conclusive, an assessment to capital gains tax chargeable in consequence of the death is made which is based on a revision of the market value fixed by the assessment or decision which has become conclusive, subsection (3) of this section shall apply by reference to that revised market value, instead of the market value fixed by the assessment or decision which has become conclusive, unless, before the making of the second-mentioned assessment, a certificate has been issued under section 11 of the Finance Act 1894 discharging from any further claim for estate duty leviable on the death the asset in question, or the Board are precluded for any other reason from re-opening the question of the value for estate duty purposes of that asset.
- (7) In this section references to an appeal against an assessment or against a decision on a claim include references to proceedings on a case stated by the Commissioners or other person hearing the appeal.
- (8) In this section references to capital gains tax chargeable in consequence of a death are references to capital gains tax chargeable on gains—
- (a) accruing on the disposal of assets deemed under this Part of this Act to be disposed of by the deceased on his death, or
 - (b) accruing to a trustee on the disposal of settled property deemed to be effected in accordance with section 25(3) of this Act,
- and a corresponding construction shall be given to references to allowable losses accruing in consequence of a death.
- (9) In this section references to capital gains tax chargeable in consequence of a death also include references—
- (a) to capital gains tax chargeable on gains accruing to a trustee on a disposal of settled property deemed to be effected in accordance with section 25(4) of this Act on the termination of a life interest on a death, or
 - (b) to capital gains tax on gains which would have so accrued but for the provisions of subsection (6) of the said section 25 by virtue of which the said subsection (4), instead of applying on the termination of the life interest, is to apply at the end of fifteen years from the occasion on which it last applied:

Provided that the allowance to be made under subsection (2) of this section in a case under paragraph (b) above shall be the amount of the capital gains tax which would have been so chargeable discounted at a yearly rate of interest of five per cent. for the period from the date of termination of the life interest to the end of the said fifteen year period.

- (10) This section shall be construed as one with Part I of the Finance Act 1894.

Exemptions and reliefs.

27 Miscellaneous exemptions for certain kinds of property.

- (1) A mechanically propelled road vehicle constructed or adapted for the carriage of passengers shall not be a chargeable asset, except for a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used.
- (2) A gain accruing to an individual on a disposal by way of gift of an asset the market value of which does not exceed one hundred pounds shall not be a chargeable gain, but this subsection and section 17(6) of this Act shall not together apply to gifts made by the same individual in the same year of assessment the total value of which exceeds one hundred pounds.
- (3) If the adjusted sale price and adjusted purchase price to be taken into account under Schedule 6 to this Act in computing the amount of a gain accruing on a disposal of securities of one of the descriptions in Schedule 9 to this Act are both within the exempt price range specified in that Schedule for those securities a gain accruing on that disposal shall not be a chargeable gain (and a loss so accruing shall not be an allowable loss) and if the range between those prices overlaps that exempt price range a proportion of a gain so accruing shall not be a chargeable gain, which shall be the proportion which the part of the range between those prices which overlaps that exempt price range bears to the whole of the range between those prices (and correspondingly a part of a loss so accruing shall not be an allowable loss).

In this subsection " adjusted sale price " means the amount of the consideration for the disposal and " adjusted purchase price " means the amount of the consideration for the acquisition (that is the acquisition by the person making the disposal), both adjusted, where the nominal amount of the securities being disposed of is not one hundred pounds, to represent a price for a nominal amount of one hundred pounds.

- (4) Savings certificates and non-marketable securities issued under the National Loans Act 1939 or any corresponding enactment forming part of the law of Northern Ireland shall not be chargeable assets.
- (5) A gain shall not be a chargeable gain if accruing on the disposal by an individual of currency of any description acquired by him for the personal expenditure outside the United Kingdom of himself or his family or dependants (including expenditure on the provision or maintenance of any residence outside the United Kingdom).
- (6) A gain shall not be a chargeable gain if accruing on the disposal by any person of a decoration awarded for valour or gallant conduct which he acquired otherwise than for consideration in money or money's worth.
- (7) It is hereby declared that winnings from betting, including pool betting, or lotteries or games with prizes, are not chargeable gains, and rights to winnings obtained by participating in any pool betting or lottery or game with prizes shall not constitute chargeable assets.
- (8) It is hereby declared that sums obtained by way of compensation or damages for any wrong or injury suffered by an individual in his person or in his profession or vocation are not chargeable gains.
- (9) In subsection (4) of this section—

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- (a) " savings certificates " means savings certificates issued under section 7 of the National Debt Act 1958 or section 59 of the Finance Act 1920, and any war savings certificates as defined in section 11(2) of the National Debt Act 1958, together with any savings certificates issued under any enactment forming part of the law of Northern Ireland and corresponding to the said enactments, and
- (b) " non-marketable securities " means securities which are not transferable, or which are transferable only with the consent of some Minister of the Crown, or the consent of a department of the Government of Northern Ireland, or only with the consent of the National Debt Commissioners.

(10) If under this section an asset is not a chargeable asset, then no chargeable gain or allowable loss shall accrue on its disposal.

28 Life assurance and deferred annuities.

- (1) This section has effect as respects any policy of assurance or contract for a deferred annuity on the life of any person.
- (2) No chargeable gain shall accrue on the disposal of, or of an interest in, the rights under any such policy of assurance or contract except where the person making the disposal is not the original beneficial owner and acquired the rights or interests for a consideration in money or money's worth.
- (3) Subject to subsection (2) above, the occasion of the payment of the sum or sums assured by a policy of assurance or of the first instalment of a deferred annuity, and the occasion of the surrender of a policy of assurance or of the rights under a contract for a deferred annuity, shall be the occasion of a disposal of the rights under the policy of assurance or contract for a deferred annuity, and the amount of the consideration for the disposal of a contract for a deferred annuity shall be the market value at that time of the right to that and further instalments of the annuity.

29 Private residences.

- (1) This section applies to a gain accruing to an individual so far as attributable to the disposal of, or of an interest in.—
 - (a) a dwelling-house or part of a dwelling-house which is, or has at any time in his period of ownership been, his only or main residence, or
 - (b) land which he has for his own occupation and enjoyment with that residence as its garden or grounds up to an area (inclusive of the site of the dwelling-house) of one acre or such larger area as the Commissioners concerned may in any particular case determine, on being satisfied that, regard being had to the size and character of the dwelling-house, the larger area is required for the reasonable enjoyment of it (or of the part in question) as a residence.

In the case where part of the land occupied with a residence is and part is not within this subsection, then (up to the permitted area) that part shall be taken to be within this subsection which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residence.

- (2) The gain shall not be a chargeable gain if the dwelling-house or part of a dwelling-house has been the individual's only or main residence throughout the period of ownership, or throughout the period of ownership except for all or any part of the last twelve months of that period.

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- (3) Where subsection (2) of this section does not apply a fraction of the gain shall not be a chargeable gain, and that fraction shall be—
- (a) the length of the part or parts of the period of ownership during which the dwelling-house or the part of the dwelling-house was the individual's only or main residence, but inclusive of the last twelve months of the period of ownership in any event, divided by
 - (b) the length of the period of ownership.
- (4) For the purposes of subsections (2) and (3) of this section—
- (a) a period of absence not exceeding three years (or periods of absence which together did not exceed three years), and in addition
 - (b) any period of absence throughout which the individual worked in an employment or office all the duties of which were performed outside the United Kingdom, and in addition
 - (c) any period of absence not exceeding four years (or periods of absence which together did not exceed four years) throughout which the individual was prevented from residing in the dwelling-house or part of the dwelling-house in consequence of the situation of his place of work or in consequence of any condition imposed by his employer requiring him to reside elsewhere, being a condition reasonably imposed to secure the effective performance by the employee of his duties,
- shall be treated as if in that period of absence the dwelling-house or the part of the dwelling-house was the individual's only or main residence if both before and after the period there was a time when the dwelling-house was the individual's only or main residence.
- In this subsection " period of absence" means a period during which the dwelling-house or the part of the dwelling-house was not the individual's only or main residence and throughout which he had no residence or main residence eligible for relief under this section.
- (5) If the gain accrues from the disposal of a dwelling-house or part of a dwelling-house part of which is used exclusively for the purposes of a trade or business or of a profession or vocation, the gain shall be apportioned and the foregoing subsections shall apply in relation to the part of the gain apportioned to the part which is not exclusively used for those purposes.
- (6) If at any time in the period of ownership there is a change in what is occupied as the individual's residence, whether on account of a reconstruction or conversion of a building or for any other reason, or there have been changes as regards the use of part of the dwelling-house for the purpose of a trade or business, or of a profession or vocation, or for any other purpose, the relief given by this section may be adjusted in such manner as the Commissioners concerned may consider to be just and reasonable.
- (7) So far as it is necessary for the purposes of this section to determine which of two or more residences is an individual's main residence for any period.—
- (a) the individual may conclude that question by notice in writing to the inspector given within two years from the beginning of that period, or given by the end of the year 1966-67, if that is later, but subject to a right to vary that notice by a further notice in writing to the inspector as respects any period beginning not earlier than two years before the giving of the further notice,

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- (b) subject to paragraph (a) above, the question shall be concluded by the determination of the inspector, which may be as respects either the whole or specified parts of the period of ownership in question,
and notice of any determination of the inspector under paragraph (b) above shall be given to the individual who may appeal to the General Commissioners or the Special Commissioners against that determination within thirty days of service of the notice.
- (8) In the case of a man and his wife living with him—
- (a) there can only be one residence or main residence for both, so long as living together, and, where a notice under subsection (7) (a) of this section affects both the husband and the wife, it must be made by both, and
 - (b) if the one disposes of, or of his or her interest in, the dwelling-house or part of a dwelling-house which is their only or main residence to the other, and in particular if it passes on death to the other as legatee, the other's period of ownership shall begin with the beginning of the period of ownership of the one making the disposal, and
 - (c) any notice under subsection (7) (b) above which affects a residence owned by the husband and a residence owned by the wife shall be given to each and either may appeal under that subsection.
- (9) This section shall also apply in relation to a gain accruing to a trustee on a disposal of settled property being an asset within subsection (1) of this section where during the period of ownership of the trustee the dwelling-house or part of the dwelling-house mentioned in that subsection has been the only or main residence of a person entitled to occupy it under the terms of the settlement and in this section as so applied—
- (a) references to the individual shall be taken as references to the trustee except in relation to the occupation of the dwelling-house or part of the dwelling-house, and
 - (b) the notice which may be given to the inspector under subsection (7)(a) above shall be a joint notice by the trustee and the person entitled to occupy the dwelling-house or part of the dwelling-house.
- (10) If as respects a gain accruing to an individual so far as attributable to the disposal of, or of an interest in, a dwelling-house or part of a dwelling-house which is, or has at any time in his period of ownership been, the sole residence of a dependent relative of the individual, provided rent-free and without any other consideration, the individual so claims, such relief shall be given in respect of it and its garden or grounds as would be given under this section, if the dwelling-house (or part of the dwelling-house) had been the individual's only or main residence in the period of residence by the dependent relative, and shall be so given in addition to any relief available under this section apart from this subsection:

Provided that—

- (a) not more than one dwelling-house (or part of a dwellinghouse) may qualify for relief as being the residence of a dependent relative of the claimant at any one time nor, in the case of a man and his wife living with him, as being the residence of a dependent relative of the claimant or of the claimant's husband or wife at any one time, and
- (b) the inspector, before allowing a claim may require the claimant to show that the giving of the relief claimed will not under proviso (a) above preclude the giving of relief to the claimant's wife or husband or that a claim to any such relief has been relinquished.

In this subsection " dependent relative " means, in relation to an individual, a relative of the individual, or of his or her wife or husband, who is incapacitated by old age or infirmity from maintaining himself, or the mother of the individual or of his or her wife or husband, if the mother is widowed, or living apart from her husband, or, in consequence of dissolution or annulment of marriage, a single woman.

- (11) This section shall not apply in relation to a gain unless the acquisition of, or of the interest in, the dwelling-house or the part of a dwelling-house was made for the purpose of residing in it and not wholly or partly for the purpose of realising a gain from the disposal of it, and shall not apply in relation to a gain so far as attributable to any expenditure which was incurred after the beginning of the period of ownership and was incurred wholly or partly for the purpose of realising a gain from the disposal.
- (12) Apportionments of consideration shall be made wherever required by this section and, in particular, where a person disposes of a dwelling-house only part of which is his only or main residence.
- (13) In this section " the period of ownership "—
 - (a) where the individual has had different interests at different times shall be taken to begin from the first acquisition taken into account in arriving at the expenditure which under Schedule 6 to this Act is allowable as a deduction in computing under that Schedule the amount of the gain to which this section applies, and
 - (b) for the purposes of subsections (2), (3) and (4) of this section, shall not include any period before 6th April 1965.

30 Chattels sold for £1,000 or less.

- (1) Subject to this section a gain accruing on a disposal of an asset which is tangible movable property shall not be a chargeable gain if the amount or value of the consideration for the disposal does not exceed one thousand pounds.
- (2) The amount of tax (whether capital gains tax or corporation tax) chargeable in respect of a gain accruing on a disposal of an asset which is tangible movable property for a consideration the amount or value of which exceeds one thousand pounds shall not exceed half the difference between the amount of that consideration and one thousand pounds.

For the purposes of this subsection the capital gains tax or corporation tax chargeable in respect of the gain shall be the amount of tax which would not have been chargeable but for that gain.

- (3) Subsections (1) and (2) above shall not affect the amount of an allowable loss accruing on the disposal of an asset, but for the purposes of computing under this Part of this Act the amount of a loss accruing on the disposal of tangible movable property the consideration for the disposal shall, if less than one thousand pounds, be deemed to be one thousand pounds and the losses which are allowable losses shall be restricted accordingly.
- (4) If two or more assets which have formed part of a set of articles of any description all owned at one time by one person are disposed of by that person, and—
 - (a) to the same person, or
 - (b) to persons who are acting in concert or who are, in the terms of paragraph 21 of Schedule 7 to this Act, connected persons,

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whether on the same or different occasions, the two or more transactions shall be treated as a single transaction disposing of a single asset, but with any necessary apportionments of the reductions in tax, and in allowable losses, under subsections (2) and (3) of this section; and this subsection shall also apply where the assets, or some of the assets, are disposed of on different occasions, and one of them falls after 11th November 1964 but before 7th April 1965 but not so as to make any gain accruing on a disposal before 7th April 1965 a chargeable gain.

- (5) If the disposal is of a right or interest in or over tangible movable property—
- (a) in the first instance subsections (1), (2) and (3) of this section shall be applied in relation to the asset as a whole, taking the consideration as including the market value of what remains undisposed of, in addition to the actual consideration,
 - (b) where the sum of the actual consideration and that market value exceeds one thousand pounds, the limitation on the amount of tax in subsection (2) of this section shall be to half the difference between that sum and one thousand pounds multiplied by the fraction equal to the actual consideration divided by the said sum, and
 - (c) where that sum is less than one thousand pounds any loss shall be restricted under subsection (3) of this section by deeming the consideration to be the actual consideration plus the said fraction of the difference between the said sum and one thousand pounds.
- (6) This section shall not apply—
- (a) in relation to a disposal of commodities of any description by a person dealing on a terminal market or dealing with or through a person ordinarily engaged in dealing on a terminal market, or
 - (b) in relation to a disposal of currency of any description.

31 Works of art, etc.

- (1) A gain accruing on the disposal of an asset by way of gift, or accruing on a disposal on death of an asset bequeathed by the deceased, shall not be a chargeable gain if under section 15(2) of the Finance Act 1894 (gifts and bequests for national purposes, etc.) the Treasury remit estate duty by reference to the gift or bequest or, where (as in the case of a gift or in the case of an asset exempt from estate duty) remission under that section would have no effect for the purposes of estate duty, if the Treasury determine that the gift or bequest qualifies for relief under the said section 15(2).
- (2) A concession shall be given under this section in respect of the disposal of an asset on death if by virtue of section 40 of the Finance Act 1930 (which as amended by section 48 of the Finance Act 1950 exempts from estate duty objects of national, scientific, historic or artistic interest) the asset is exempt from estate duty chargeable by reference to that death, and a claim for exemption under that section may be made notwithstanding that, because the asset is exempt from estate duty or for any other reason, the allowance of the claim has no effect for the purposes of estate duty.
- (3) A concession shall be given under this section in respect of the disposal of an asset which is an object to which the said section 40 applies, being—
 - (a) a disposal by way of gift, including a gift in settlement, or
 - (b) a disposal of settled property by the trustee on an occasion when, under section 25(3) or section 25(4) of this Act, the trustee is deemed to dispose and immediately re-acquire, settled property,

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if an undertaking in the terms of section 48(1) of the Finance Act 1950 (under which the exempted objects must remain in the United Kingdom and reasonable steps taken for their preservation) is given by such person as the Treasury think appropriate in the circumstances of the case.

- (4) The concession under subsection (2) or subsection (3) of this section shall be that both the person making the disposal and the person acquiring the asset on that disposal shall be treated for all the purposes of this Part of this Act as if the asset was acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.
- (5) If there is a sale of the asset in relation to which section 40(2) of the Finance Act 1930 (under which the exemption is withdrawn if the exempted asset is sold otherwise than to certain national institutions or for certain other specified purposes) applies, or in relation to which it would have applied assuming that an undertaking given in respect of the asset under the said section 48(1) or subsection (3) of this section had been given for the purposes of relief from estate duty, as well as for the purposes of relief from tax on chargeable gains, or if the Treasury are satisfied that at any time during the period for which an undertaking under either enactment was given it has not been observed in a material respect, the person selling the asset or, as the case may be, the owner of the asset, shall be treated for the purposes of this Part of this Act as having sold the asset for a consideration equal to its market value, and in the case of a failure to comply with the undertaking, having immediately reacquired it for a consideration equal to its market value.
- (6) A gain shall not be a chargeable gain if accruing on the disposal of an asset by way of a sale to which the said section 40(2) would have applied (or would have applied on the assumptions in the last foregoing subsection), but for the proviso to that subsection, or but for express exception in any enactment amending the said section 40(2), including section 30(3) of the Finance Act 1953 and section 34(1) of the Finance Act 1956 (acceptance of objects in satisfaction of death duties).
- (7) The period for which an undertaking under subsection (3) of this section is given shall be until the asset again passes on a death or is disposed of, whether by way of sale or gift or otherwise (but without regard to any occasion on which, under this Part of this Act, assets are deemed to be disposed of), and any undertaking given after the passing of this Act under section 48(1) of the Finance Act 1950 shall be for the like period, and the reference in that subsection to the object's being sold shall be construed accordingly; and if assets subject to any such undertaking under the said section 48(1) or subsection (3) of this section are disposed of (construing references to disposal as above) otherwise than on sale, and without any such undertaking being given in replacement, section 40(2) of the Finance Act 1930 and subsection (5) of this section shall apply as if the assets had been then sold to an individual.
- (8) If in pursuance of subsection (5) of this section a person is treated as having on any occasion sold an asset and estate duty becomes payable on the same occasion then in determining the value of the asset for the purposes of the estate duty allowance shall be made for the capital gains tax chargeable on any chargeable gain accruing on that occasion.
- (9) This section, without subsection (8), shall apply in relation to estate duty leviable under the law of Northern Ireland as it applies in relation to estate duty leviable under the law of Great Britain with the substitution for the estate duty enactments mentioned in this section of the corresponding enactments forming part of the law of Northern Ireland, and subject to any other necessary modifications.

32 Assets given, devised or bequeathed in connexion with preservation of land for public benefit.

(1) A gain accruing on the disposal of an asset by way of gift, or accruing on a disposal on death of an asset devised or bequeathed by the deceased, shall not be a chargeable gain if under section 40 of the Finance Act 1931 (which, as amended by section 27 of the Finance Act 1936, section 31 of the Finance Act 1937, section 31 of the Finance Act 1949, section 33 of the Finance Act 1951 and section 54 of the Finance Act 1963, affords relief from estate duty in the case of land given to the National Trust or for certain other public purposes)—

- (a) the asset is exempt from estate duty which is or might have been leviable by reference to the gift, devise or bequest, or
- (b) the Treasury remit estate duty so leviable or where (as in the case of a gift or in the case of an asset exempt from estate duty) remission under that section would have no effect for the purposes of estate duty, if the Treasury determine that the gift, devise or bequest qualifies for relief under that section.

(2) A gain accruing—

- (a) on a disposal of assets forming part of property deemed under this Part of this Act to be effected by a deceased person on his death, or
- (b) on a disposal of assets forming part of settled property deemed to be effected in accordance with section 25(3) of this Act in consequence of the termination of a life interest by death,

shall not be a chargeable gain if and to the extent that under section 31(3) of the Finance Act 1937 (which, as amended by section 31 of the Finance Act 1949, section 33 of the Finance Act 1951 and section 54 of the Finance Act 1963, affords relief from estate duty in respect of settled property to which the National Trust or some other public body is entitled subject to one or more life interests) exemption is to be granted as to the estate duty (if any) leviable on that death in respect of those assets.

(3) This section shall apply in relation to estate duty leviable under the law of Northern Ireland as it applies to estate duty leviable under the law of Great Britain with the substitution for the estate duty enactments mentioned in this section of the corresponding enactments forming part of the law of Northern Ireland and subject to any other necessary modifications.

33 Replacement of business assets.

(1) If the consideration which a person carrying on a trade obtains for the disposal of, or of his interest in, assets (in this section referred to as "the old assets") used, and used only, for the purposes of the trade throughout the period of ownership is applied by him in acquiring other assets, or an interest in other assets (in this section referred to as "the new assets") which on the acquisition are taken into use, and used only, for the purposes of the trade, and the old assets and new assets are within one, and the same one, of the classes of assets listed in this section, then the person carrying on the trade shall, on making a claim as respects the consideration which has been so applied, be treated for the purposes of this Part of this Act—

- (a) as if the consideration for the disposal of, or of the interest in, the old assets were (if otherwise of a greater amount or value) of such amount as would secure that on the disposal neither a loss nor a gain accrues to him, and
- (b) as if the amount or value of the consideration for the acquisition of, or of the interest in, the new assets were reduced by the excess of the amount or value

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of the actual consideration for the disposal of, or of the interest in, the old assets over the amount of the consideration which he is treated as receiving under paragraph (a) above,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Part of this Act of the other party to the transaction involving the old assets or of the other party to the transaction involving the new assets.

- (2) Subsection (1) of this section shall not apply if part only of the amount or value of the consideration for the disposal of, or of the interest in, the old assets is applied as described in that subsection but if all of the amount or value of the consideration except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of, or of the interest in, the old assets is so applied, then the person carrying on the trade, on making a claim as respects the consideration which has been so applied, shall be treated for the purposes of this Part of this Act—
- (a) as if the amount of the gain so accruing were reduced to the amount of the said part (and, if not all chargeable gain, with a proportionate reduction in the amount of the chargeable gain), and
 - (b) as if the amount or value of the consideration for the acquisition of, or of the interest in, the new assets were reduced by the amount by which the gain is reduced under paragraph (a) of this subsection,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Part of this Act of the other party to the transaction involving the old assets or of the other party to the transaction involving the new assets.

- (3) This section shall only apply if the acquisition of, or of the interest in, the new assets takes place, or an unconditional contract for the acquisition is entered into, in the period beginning twelve months before and ending twelve months after the disposal of, or of the interest in, the old assets, or at such earlier or later time as the Board may by notice in writing allow :

Provided that, where an unconditional contract for the acquisition is so entered into, this section may be applied on a provisional basis without waiting to ascertain whether the new assets, or the interest in the new assets, is acquired in pursuance of the contract, and, when that fact is ascertained, all necessary adjustments shall be made by making assessments or by repayment or discharge of tax, and shall be so made notwithstanding any limitation in this Act on the time within which assessments may be made.

- (4) If two or more persons are carrying on a trade in partnership, this section shall not apply in relation to any one of them unless he is, under this Part of this Act, to be treated both as making a disposal of a share in, or in the interest in, the old assets, and as acquiring a share in, or in the interest in, the new assets ; and if those shares are different, that partner's share shall be taken for the purpose of this section to be the smaller share.
- (5) This section shall not apply unless the acquisition of, or of the interest in, the new assets was made for the purpose of their use in the trade, and not wholly or partly for the purpose of realising a gain from the disposal of, or of the interest in, the new assets.
- (6) The classes of assets for the purposes of this section are as follows.
- Class 1. Assets within the heads A and B below
 - A. Except where the trade is a trade of dealing in or developing land, or of providing services for the occupier of land in which the person carrying on the trade has an estate or interest—

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- (a) any building or part of a building and any permanent or semi-permanent structure in the nature of a building, occupied (as well as used) only for the purposes of the trade, and
- (b) any land occupied (as well as used) only for the purposes of the trade.

B. Fixed plant or machinery which does not form part of a building or of a permanent or semi-permanent structure in the nature of a building.

Class 2

Ships.

Class 3

Aircraft.

Class 4

Goodwill.

- (7) If, over the period of ownership or any substantial part of the period of ownership, part of a building or structure is, and part is not, used for the purposes of a trade, this section shall apply as if the part so used, with any land occupied for purposes ancillary to the occupation and use of that part of the building or structure, were a separate asset, and subject to any necessary apportionments of consideration for an acquisition or disposal of, or of an interest in, the building or structure and other land.
- (8) If the old assets were not used for the purposes of the trade throughout the period of ownership this section shall apply as if a part of the asset representing its use for the purposes of the trade having regard to the time and extent to which it was, and was not, used for those purposes, were a separate asset which had been wholly used for the purposes of the trade, and this subsection shall apply in relation to that part subject to any necessary apportionment of consideration for an acquisition or disposal of, or of the interest in, the asset.
- (9) This section shall apply in relation to a person who, either successively or at the same time, carries on two trades which are in different localities, but which are concerned with goods or services of the same kind, as if, in relation to old assets used for the purposes of the one trade and new assets used for the purposes of the other trade, the two trades were the same trade.
- (10) This section shall apply with the necessary modifications—
- (a) in relation to the discharge of the functions of a public authority,
 - (b) in relation to the occupation of woodlands where the woodlands are managed by the occupier on a commercial basis and with a view to the realisation of profits, and
 - (c) in relation to a profession, vocation, office or employment,
- as it applies in relation to a trade, and in this section the expressions "trade", "profession", "vocation", "office" and "employment" have the same meanings as in the Income Tax Acts, but not so as to apply the provisions of the Income Tax Acts as to the circumstances in which, on a change in the persons carrying on a trade, a trade is to be regarded as discontinued, or as set up and commenced.
- (11) The provisions of this Part of this Act fixing the amount of the consideration deemed to be given for the acquisition or disposal of assets shall be applied before this section is applied.

- (12) Without prejudice to the provisions of this Part of this Act providing generally for apportionments, where consideration is given for the acquisition or disposal of assets some or part of which are assets in relation to which a claim under subsection (1) or subsection (2) of this section applies, and some or part of which are not, the consideration shall be apportioned in such manner as is just and reasonable.

34 Transfer of business on retirement.

- (1) If an individual who has attained the age of sixty years—
- (a) disposes by way of sale or gift of the whole or part of a business which he has owned throughout the period of ten years ending with the disposal, or
 - (b) disposes by way of sale or gift of shares or securities of a company which has been a trading company and his family company during the period of ten years ending with the disposal, and of which he has been a full time working director throughout that period,
- then relief shall be given under this section in respect of gains accruing to him on the disposal and the amount available for that relief shall be—
- (i) if he has attained the age of sixty-five years, ten thousand pounds,
 - (ii) if he has not attained the age of sixty-five years, two thousand pounds for every year by which his age exceeds sixty, plus, for any odd part of a year, a corresponding part of two thousand pounds.
- (2) Where subsection (1)(a) above applies the gains accruing to the individual on the disposal of chargeable business assets comprised in the disposal by way of sale or gift shall be aggregated, and only so much of that aggregate as exceeds the amount available for relief under this section shall be chargeable gains (but not so as to affect liability in respect of gains accruing on the disposal of assets other than chargeable business assets).
- (3) Where subsection (1)(b) above applies—
- (a) the gains which accrue to the individual on the disposal of the shares or securities shall be aggregated, and
 - (b) of a proportion of that aggregate sum which is equal to the proportion which the part of the value of the company's assets (including cash) at the time of the disposal which is attributable to the value of the company's chargeable business assets bears to the whole of that value, only so much as exceeds the amount available for relief under this section shall constitute chargeable gains (but not so as to affect liability in respect of gains representing the balance of the said aggregate sum).
- (4) So far as the amount available for relief under subsection (1) above is applied in giving relief to an individual as respects a disposal within that subsection it shall not be applied in giving relief to that individual as respects any other disposal (and the relief shall be applied in the order in which any disposals take place), and—
- (a) if the total amount of relief given to an individual under this section exceeds five thousand pounds section 24(2) of this Act shall apply on the death of the individual as if the five thousand pounds there mentioned were reduced by the amount of the excess, and
 - (b) if the total amount of relief given to an individual under this section is ten thousand pounds, no relief shall be given under the said section 24(2) on the death of that individual.

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- (5) In arriving at the aggregate under subsection (2) or subsection (3) above—
- (a) the respective amounts of the gains shall be computed in accordance with the provisions of this Act (other than this section) fixing the amount of chargeable gains, and
 - (b) any allowable loss which accrues on the disposal shall be deducted,
- and the provisions of this section shall not affect the computation of the amount of any allowable loss.

- (6) In this section—

" chargeable business asset " means an asset (including goodwill but not including shares or securities or other assets held as investments, which is, or is an interest in, an asset used for the purposes of a trade, profession, vocation, office or employment carried on by the individual, or as the case may be by the individual's family company, other than an asset on the disposal of which no chargeable gain accrues or (where the disposal is of shares or securities in the family company) on the disposal of which no chargeable gain would accrue if the family company disposed of the asset at the time of the disposal of the shares or securities;

" family company " means, in relation to an individual, a company the voting rights-in which are—

- (a) as to not less than twenty-five per cent., exercisable by the individual, or
- (b) as to not less than seventy-five per cent., exercisable by the individual or a member of his family, and, as to not less than ten per cent., exercisable by the individual himself, and

" family " means, in relation to an individual, the husband or wife of the individual, and a relative of the individual or the individual's husband or wife, and " relative " means brother, sister, ancestor or lineal descendant;

" full time working director " means a director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity;

" trade ", " profession ", " vocation ", " office " and " employment " have the same meanings as in the Income Tax Acts;

" trading company " has the meaning given by paragraph 8 of Schedule 18 to this Act,

and in this section references to the disposal of the whole or part of a business include references to the disposal of the whole or part of the assets provided or held for the purposes of an office or" employment by the person exercising that office or employment.

35 Exemption for charities and other miscellaneous exemptions.

- (1) Subject to subsection (2) of this section a gain shall not be a chargeable gain if it accrues to a charity and is applicable and applied for charitable purposes.
- (2) If property held on charitable trusts ceases to be subject to charitable trusts—
 - (a) the trustees shall be treated as if they had disposed of, and immediately re-acquired, the property for a consideration equal to its market value, any gain on the disposal being treated as not accruing to a charity, and

- (b) if and so far as any of that property represents, directly or indirectly, the consideration for the disposal of assets by the trustees, any gain accruing on that disposal shall be treated as not having accrued to a charity,
and, notwithstanding the provisions of this Act limiting the time for making assessments, an assessment to capital gains tax chargeable by virtue of paragraph (b) above may be made at any time not more than three years after the end of the year of assessment in which the property ceases to be subject to charitable trusts.
- (3) In section 461 of the Income Tax Act 1952 and section 73(3) of the Finance Act 1960 (diplomatic privileges) references to income tax shall include references to capital gains tax, and a gain shall not be a chargeable gain if accruing to a consular officer or employee of any foreign state to which section 24 of the Finance Act 1954 for the time being applies on the disposal of assets which at the time of the disposal were situated outside the United Kingdom.
- (4) Gains shall not be chargeable gains if accruing on the disposal of stock to which subsection (1) or subsection (2) of section 119 of the Income Tax Act 1952 (stock in the books of the Bank of England held on behalf of the Crown or by the National Debt Commissioners) applies.
- (5) A gain shall not be a chargeable gain if accruing on the disposal by the trustees of any settled property held on trusts to which section 459 of the Income Tax Act 1952 (funds for reducing the national debt) applies.

36 Superannuation funds.

- (1) A gain shall not be a chargeable gain if accruing to a person from his disposal of investments held by him as part of a fund approved under section 379 of the Income Tax Act 1952 (approved superannuation funds) but so that where part only of a fund is approved under that section the gain shall be exempt from being a chargeable gain to the same extent only as income derived from the assets would be exempt under that section.
- (2) A gain shall not be a chargeable gain if accruing to a person from his acquisition and disposal of assets held by him as part of a fund of which income is exempt from tax under any of the following enactments (which relate to superannuation and similar funds), that is to say.—
- (a) in the Income Tax Act 1952 sections 381, 382 and 385 ;
 - (b) in the Finance Act 1956 section 22(5) and section 40(3) ;
 - (c) in the Finance Act 1961 section 21 ;
 - (d) section 4(5) of the Ministerial Salaries and Pensions Act 1965.

37 Unit trusts and investment trusts.

- (1) If in accordance with section 67 of this Act the total net gains of a unit trust or investment trust for an accounting period are apportioned to shares in the unit trust or investment trust the amount so apportioned to any shares shall be treated for the purposes of this Part of this Act as if it were expenditure allowable under paragraph 4 of Schedule 6 to this Act and incurred by the person holding the shares at the time when the amount was apportioned to those shares.
- (2) For the purposes of this section and the said section 67 " investment trust " means, as respects any accounting period, a company which is not a close company as defined

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in Schedule 18 to this Act and which is approved for the purposes of this section for that accounting period by the Board, and the Board shall not approve any company unless it is shown to their satisfaction—

- (a) that the company's income is derived wholly or mainly from shares or securities; and
- (b) subject to subsection (3) of this section that no holding in a company, other than an investment trust or a company which would qualify as an investment trust but for paragraph (c) of this subsection, represents more than fifteen per cent. by value of the investing company's investments, and
- (c) that the shares or securities of the company, or a class of them, are quoted on a recognised stock exchange in the United Kingdom, and
- (d) that the distribution as dividend of surpluses arising from the realisation of investments is prohibited by the company's memorandum or articles of association, and
- (e) that the company does not retain in respect of any accounting period more than fifteen per cent. of the income it derives from shares and securities.

(3) Subsection (2)(b) above shall not apply—

- (a) to a holding in a company acquired before 6th April 1965 which on that date represented not more than twenty-five per cent. by value of the investing company's investments, or
- (b) to a holding in a company acquired on or after that date which, when it was acquired, represented not more than fifteen per cent. by value of the investing company's investments,

so long as no addition is made to the holding.

(4) For the purposes of subsection (3) above—

- (a) " holding " means the shares or securities (whether of one class or more than one class) held in any one company, and
- (b) an addition is made to a holding whenever the investing company acquires shares or securities of that one company, otherwise than by being allotted shares or securities without becoming liable to give any consideration, and if an addition is made to a holding that holding is acquired when the addition, or the latest addition, is made to the holding, and
- (c) where in connection with a scheme of reconstruction or amalgamation, a company issues shares or securities to persons holding shares or securities in the second company in respect of and in proportion to (or as nearly as may be in proportion to) their holdings in the second company, without those persons becoming liable to give any consideration, a holding of the shares or securities in the second company and a corresponding holding of the shares or securities so issued shall be regarded as the same holding,

and in subsection (2)(c) above " recognised stock exchange in the United Kingdom " has the same meaning as in the Prevention of Fraud (Investments) Act 1958 except that it includes the Belfast Stock Exchange.

38 Unit trusts for exempt unit holders.

- (1) If throughout a year of assessment all the issued units in a unit trust scheme as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940 are assets such that any gain accruing if they were disposed of by the unit holder would be wholly exempt

from capital gains tax or corporation tax (otherwise than by reason of residence) gains accruing to the unit trust scheme in that year of assessment shall not be chargeable gains.

- (2) If throughout a year of assessment all the issued units in a unit trust scheme as so defined constitute investments to which section 36(1) of this Act applies, each being an investment such that any gain accruing if it were disposed of by the unit holder would either be wholly exempt from capital gains tax or corporation tax, or be so exempt as to not less than eighty-five per cent., then of all the gains accruing to the unit trust scheme in that year of assessment one-tenth (that is one-tenth of what would apart from this subsection be chargeable gains) shall be chargeable gains; and section 37 of this Act, with the provisions of section 67 applying for the purposes of the said section 37, shall apply in relation to chargeable gains accruing to the unit trust scheme in that year of assessment (as reduced under this subsection) where the unit trust scheme is not within section 67(1) of this Act, as well as where it is.

39 Double taxation relief.

- (1) For the purpose of giving relief from double taxation in relation to capital gains tax and tax on chargeable gains charged under the law of any country outside the United Kingdom in sections 347 and 348 of the Income Tax Act 1952 (double taxation relief and unilateral relief), with Schedules 16 and 17 to that Act, for references to income there shall be substituted references to capital gains and for references to income tax there shall be substituted references to capital gains tax meaning, as the context may require, tax charged under the law of the United Kingdom or tax charged under the law of a country outside the United Kingdom.
- (2) Any arrangements set out in an order made under the said section 347 either before the passing of this Act, or, in the case of an order of which a draft was laid before the House of Commons before the passing of this Act, made after the passing of this Act, shall so far as they provide (in whatever terms) for relief from tax chargeable in the United Kingdom on capital gains have effect in relation to capital gains tax.
- (3) So far as by virtue of this section capital gains tax charged under the law of a country outside the United Kingdom may be brought into account under the said provisions of the Income Tax Act 1952 as applied by this section, that tax, whether relief is given by virtue of this section in respect of it or not, shall not be taken into account for the purposes of those provisions of the Income Tax Act 1952 as they apply apart from this section.
- (4) Section 353 of the Income Tax Act 1952 (disclosure of information for purposes of double taxation) shall apply in relation to capital gains tax as it applies in relation to income tax.

40 Relief in respect of delayed remittances of gains.

- (1) A person charged or chargeable for any year of assessment in respect of chargeable gains accruing to him from the disposal of assets situated outside the United Kingdom may claim that the following provisions of this section shall apply, on showing that the following conditions are satisfied, that is—
 - (a) that he was unable to transfer those gains to the United Kingdom, and

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- (b) that that inability was due to the laws of the territory where the income arose, or to the executive action of its government, or to the impossibility of obtaining foreign currency in that territory, and
 - (c) that the inability was not due to any want of reasonable endeavours on his part.
- (2) If he so claims then for the purposes of capital gains tax—
- (a) there shall be deducted from the amounts on which he is assessed to capital gains tax for the year in which the chargeable gain accrued to the claimant the amount as respects which the conditions in paragraphs (a), (b) and (c) above are satisfied, so far as applicable, but
 - (b) the amount so deducted shall be assessed to capital gains tax on the claimant (or his personal representatives) as if it were an amount of chargeable gains accruing in the year of assessment in which the said conditions cease to be satisfied.
- (3) No claim under this section shall be made in respect of any chargeable gain more than six years after the end of the year of assessment in which that gain accrues.
- (4) The personal representatives of a deceased person may make any claim which he might have made under this section if he had not died.

Chargeable gains accruing to non-resident companies and trusts.

41 Non-resident company.

- (1) This section applies as respects chargeable gains accruing to a company—
- (a) which is not resident in the United Kingdom, and
 - (b) which would be a close company as defined by Schedule 18 to this Act if it were resident in the United Kingdom.
- (2) Subject to this section, every person who at the time when the chargeable gain accrues to the company is resident or ordinarily resident in the United Kingdom, who, if an individual, is domiciled in the United Kingdom and who holds shares in the company shall be treated for the purposes of this Part of this Act as if a part of the chargeable gain had accrued to him.
- (3) That part shall be equal to the proportion of the assets of the company to which that person would be entitled on a liquidation of the company at the time when the chargeable gain accrues to the company.
- (4) If the part of a chargeable gain attributable to a person under subsection (2) of this section is less than one-twentieth, the said subsection (2) shall not apply to that person.
- (5) This section shall not apply in relation to—
- (a) any amount in respect of the chargeable gain which is distributed, whether by way of dividend or distribution of capital or on the dissolution of the company, to persons holding shares in the company, or creditors of the company, within two years from the time when the chargeable gain accrued to the company, or
 - (b) a chargeable gain accruing on the disposal of assets, being tangible property, whether movable or immovable, or a lease of such property, where the property was used, and used only, for the purposes of a trade carried on by the company wholly outside the United Kingdom, or

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- (c) to a chargeable gain in respect of which the company is chargeable to tax by virtue of section 50(2) (b) of this Act.
- (6) Subsection (5)(a) above shall not prevent the making of an assessment in pursuance of this section but if, by virtue of that paragraph, this section is excluded all such adjustments, whether by way of repayment or discharge of tax or otherwise, shall be made as will give effect to the provisions of that paragraph.
- (7) The amount of capital gains tax paid by a person in pursuance of subsection (2) of this section (so far as not reimbursed by the company) shall be allowable as a deduction in the computation under this Part of this Act of a gain accruing on the disposal by him of the shares by reference to which the tax was paid.
- (8) So far as it would go to reduce or extinguish chargeable gains accruing by virtue of this section to a person in a year of assessment this section shall apply in relation to a loss accruing to the company on the disposal of an asset in that year of assessment as it would apply if a gain instead of a loss had accrued to the company on the disposal, but shall only so apply in relation to that person; and subject to the foregoing provisions of this subsection this section shall not apply in relation to a loss accruing to the company.
- (9) If the person owning any of the shares in the company at the time when the chargeable gain accrues to the company is itself a company which is not resident in the United Kingdom but which would be a close company as defined in Schedule 18 to this Act if it were resident in the United Kingdom, an amount equal to the amount apportioned under subsection (3) of this section out of the chargeable gain to the shares so owned shall be apportioned among the issued shares of the second-mentioned company, and the holders of those shares shall be treated in accordance with subsection (2) of this section, and so on through any number of companies.

42 Non-resident trust.

- (1) This section applies as respects chargeable gains accruing to the trustees of a settlement if the trustees are not resident and not ordinarily resident in the United Kingdom, and if the settlor, or one of the settlors, is domiciled and either resident or ordinarily resident in the United Kingdom, or was domiciled and either resident or ordinarily resident in the United Kingdom when he made his settlement.
- (2) Any beneficiary under the settlement who is domiciled and either resident or ordinarily resident in the United Kingdom during any year of assessment shall be treated for the purposes of this Part of this Act as if an apportioned part of the amount, if any, on which the trustees would have been chargeable to capital gains tax under section 20(4) of this Act, if domiciled and either resident or ordinarily resident in the United Kingdom in that year of assessment, had been chargeable gains accruing to the beneficiary in that year of assessment; and for the purposes of this section any such amount shall be apportioned in such manner as is just and reasonable between persons having interests in the settled property, whether the interest be a life interest or an interest in reversion, and so that the chargeable gain is apportioned, as near as may be, according to the respective values of those interests, disregarding in the case of a defeasible interest the possibility of defeasance.
- (3) For the purposes of this section—
 - (a) if in any of the three years ending with that in which the chargeable gain accrues a person has received a payment or payments out of the income of the settled property made in exercise of a discretion he shall be regarded, in

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relation to that chargeable gain, as having an interest in the settled property of a value equal to that of an annuity of a yearly amount equal to one-third of the total of the payments so received by him in the said three years, and

- (b) if a person receives at any time after the chargeable gain accrues a capital payment made out of the settled property in exercise of a discretion, being a payment which represents the chargeable gain in whole or part then, except so far as any part of the gain has been attributed under this section to some other person who is domiciled and resident or ordinarily resident in the United Kingdom, that person shall, if domiciled and resident or ordinarily resident in the United Kingdom, be treated as if the chargeable gain, or as the case may be the part of the chargeable gain represented by the capital payment, had accrued to him at the time when he received the capital payment.

(4) In the case of a settlement made before 6th April 1965—

- (a) subsection (2) of this section shall not apply to a beneficiary whose interest is solely in the income of the settled property, and who cannot, by means of the exercise of any power of appointment or power of revocation or otherwise, obtain for himself, whether with or without the consent of any other person, any part of the capital represented by the settled property, and
- (b) payment of capital gains tax chargeable on a gain apportioned to a beneficiary in respect of an interest in reversion in any part of the capital represented by the settled property may be postponed until that person becomes absolutely entitled to that part of the settled property, or disposes of the whole or any part of his interest, unless he can, by any means described in paragraph (a) above, obtain for himself any of it at any earlier time,

and for the purposes of this subsection, property added to a settlement after the settlement is made shall be regarded as property under a separate settlement made at the time when the property is so added.

- (5) In any case in which the amount of any capital gains tax payable by a beneficiary under a settlement- in accordance with the provisions of this section is paid by the trustees of the settlement such amount shall not for the purposes of taxation be regarded as a payment to such beneficiary.
- (6) This section shall not apply in relation to a loss accruing to the trustees of the settlement.
- (7) In this section " settlement " and " settlor " have the same meanings as in Chapter III of Part XVIII of the Income Tax Act 1952 and "settled property" shall be construed accordingly.

Supplemental.

43 Residence and location of assets.

- (1) In this Part of this Act " resident " and " ordinarily resident " have the same meanings as in the Income Tax Acts.
- (2) Subject to section 20(2) of this Act an individual who is in the United Kingdom for some temporary purpose only and not with any view or intent to establish his residence in the United Kingdom shall be charged to capital gains tax on chargeable gains accruing in any year of assessment if and only if the period (or the sum of the

periods) for which he is resident in the United Kingdom in that year of assessment exceeds six months.

- (3) For the purposes of this Part of this Act—
- (a) the situation of rights or interests (otherwise than by way of security) in or over immovable property is that of the immovable property,
 - (b) subject to the following provisions of this subsection, the situation of rights or interests (otherwise than by way of security) in or over tangible movable property is that of the tangible movable property,
 - (c) subject to the following provisions of this subsection, a debt, secured or unsecured, is situated in the United Kingdom if and only if the creditor is resident in the United Kingdom,
 - (d) shares or securities issued by any municipal or governmental authority, or by any body created by such an authority, are situated in the country of that authority,
 - (e) subject to paragraph (d) above, registered shares or securities are situated where they are registered and, if registered in more than one register, where the principal register is situated,
 - (f) a ship or aircraft is situated in the United Kingdom if and only if the owner is then resident in the United Kingdom, and an interest or right in or over a ship or aircraft is situated in the United Kingdom if and only if the person entitled to the interest or right is resident in the United Kingdom,
 - (g) the situation of good-will as a trade, business or professional asset is at the place where the trade, business or profession is carried on,
 - (h) patents, trade-marks and designs are situated where they are registered, and if registered in more than one register, where each register is situated, and copyright, franchises, rights and licences to use any copyright material, patent, trade-mark or design are situated in the United Kingdom if they, or any rights derived from them, are exercisable in the United Kingdom,
 - (i) a judgment debt is situated where the judgment is recorded.

44 Valuation.

- (1) Subject to the following subsections, in this Part of this Act " market value " in relation to any assets means the price which those assets might reasonably be expected to fetch on a sale in the open market.
- (2) In estimating the market value of any assets no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole of the assets is to be placed on the market at one and the same time :

Provided that where capital gains tax is chargeable, or an allowable loss accrues, in consequence of death 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.

- (3) Subject to paragraph 22(3) of Schedule 6 to this Act the market value of shares or securities quoted on the London Stock Exchange shall, except where in consequence of special circumstances prices so quoted are by themselves not a proper measure of market value, be as follows—

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- (a) the lower of the two prices shown in the quotations for the shares or securities in the Stock Exchange Official Daily List on the relevant date plus one-quarter of the difference between those two figures, or
- (b) halfway between the highest and lowest prices at which bargains, other than bargains done at special prices, were recorded in the shares or securities for the relevant date,

choosing the amount under paragraph (a) if less than that under paragraph (b), or if no such bargains were recorded for the relevant date, and choosing the amount under paragraph (b) if less than that under paragraph (a):

Provided that—

- (i) this subsection shall not apply to shares or securities for which some other stock exchange in the United Kingdom affords a more active market; and
 - (ii) if the London Stock Exchange is closed on the relevant date the market value shall be ascertained by reference to the latest previous date or earliest subsequent date on which it is open, whichever affords the lower market value.
- (4) Subject to paragraph 22(3) of Schedule 6 to this Act in this Part of this Act " market value " in relation to any rights of unit holders in any unit trust scheme (as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940) the buying and selling prices of which are published daily by the managers of the scheme shall mean an amount equal to the buying price (that is the lower price) so published on the relevant date, or if none were published on that date, on the latest date before.
- (5) In relation to an asset of a kind the sale of which is subject to restrictions imposed under the Exchange Control Act 1947 such that part of what is paid by the purchaser is not retainable by the seller the market value, as arrived at under subsection (1), subsection (3) or subsection (4) of this section, 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.
- (6) If and so far as the question in dispute on any appeal against an assessment to tax (whether capital gains tax or corporation tax) on chargeable gains, or against a decision on a claim under this Part of this Act is a question of the value of any land, or of a lease of land then—
- (a) if the land is in England or Wales the question shall be determined on a reference to the Lands Tribunal, and
 - (b) if the land is in Northern Ireland the question shall be determined on a reference to the Lands Tribunal for Northern Ireland.
- (7) In relation to land and leases of land in Scotland for any reference to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland :
- Provided that until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland, this subsection shall have effect as if for the reference to the Lands Tribunal for Scotland there were substituted a reference to a person selected from the panel of referees appointed under Part I of the Finance (1909-1910) Act 1910.
- (8) If and so far as any such appeal involves the question of the value of any shares or securities in a company resident in the United Kingdom, other than shares or securities dealt in on a stock exchange in the United Kingdom, that question shall be determined by the General Commissioners having jurisdiction in an appeal from an assessment to income tax or corporation tax made on the company, but subject to section 11(4) of

the Income Tax Management Act 1964 (under which the assumption of jurisdiction by Commissioners cannot be questioned after the proceedings are finished).

45 Interpretation and other supplemental provisions.

(1) In this Part of this Act, unless the context otherwise requires.—

" the Board " means the Commissioners of Inland Revenue ;

" branch or agency " means any factorship, agency, receivership, branch or management, but does not include any person within the exemptions in section 373 of the Income Tax Act 1952 (general agents and brokers), and

" principal " means, in relation to the branch or agency, the person, by whatever name called, managing or in charge of the branch or agency ;

" allowable loss " has the meaning given by section 23 of this Act;

" chargeable gain " has the meaning given by section 22(10) of this Act;

" class ", in relation to shares or securities, means a class of shares or securities of any one company ;

" company " includes any body corporate or unincorporated association but does not include a partnership ;

" control " shall be construed in accordance with paragraph 3 of Schedule 18 to this Act;

" lease "—

(a) in relation to land, includes an underlease, sublease or any tenancy or licence, and any agreement for a lease, underlease, sublease or tenancy or licence and, in the case of land outside the United Kingdom, any interest corresponding to a lease as so defined,

(b) in relation to any description of property other than land, means any kind of agreement or arrangement under which payments are made for the use of, or otherwise in respect of, property, and " lessor ", " lessee " and " rent " shall be construed accordingly.

" legatee " includes any person taking under a testamentary disposition or on an intestacy or partial intestacy, whether he takes beneficially or as trustee, and a donatio mortis causa shall be treated as a testamentary disposition and shall not be treated as a gift;

" part disposal " has the meaning given by section 22(2) of this Act;

" personal representatives " has the meaning assigned to it by section 423(4) of the Income Tax Act 1952 ;

" settled property " means, subject to subsection (8) below, any property held in trust other than property to which section 22(5) of this Act applies ;

" shares " includes stock, and shares or debentures comprised in any letter of allotment or similar instrument shall be treated as issued unless the right to the shares or debentures thereby conferred remains provisional until accepted and there has been no acceptance;

" trade " has the same meaning as in the Income Tax Acts ;

" trading stock " has the meaning given by section 143(4) of the Income Tax Act 1952 as extended by section 35(5) of the Finance Act 1960 ;

" wasting asset " has the meaning given by paragraph 9 of Schedule 6 to this Act and paragraph 1 of Schedule 8 to this Act;

" year of assessment " means, in relation to capital gains tax, a year beginning on 6th April and ending on 5th April in the following calendar year,

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

and "1965-66" and so on indicate years of assessment as in the Income Tax Acts.

- (2) References in this Part of this Act to Part X of the Income Tax Act 1952 shall be construed as if they were references contained in the Income Tax Acts.
- (3) References in this Part of this Act to a married woman living with her husband should be construed in accordance with section 361(1)(2) of the Income Tax Act 1952.
- (4) A hire-purchase or other transaction under which the use and enjoyment of an asset is obtained by a person for a period at the end of which the property in the asset will or may pass to that person shall be treated for the purposes of this Part of this Act, both in relation to that person and in relation to the person from whom he obtains the use and enjoyment of the asset, as if it amounted to an entire disposal of the asset to that person at the beginning of the period for which he obtains the use and enjoyment of the asset, but subject to such adjustments of tax, whether by way of repayment or discharge of tax or otherwise, as may be required where the period for which that person has the use and enjoyment of the asset terminates without the property in the asset passing to him.
- (5) In the case of a disposal within paragraph (a), (b) (c) or (d) of section 22(3) of this Act the time of the disposal shall be the time when the capital sum is received as described in that subsection.
- (6) For the purposes of section 20(7) of this Act, there shall be treated as received in the United Kingdom in respect of any gain all amounts paid, used or enjoyed in or in any manner or form transmitted or brought to the United Kingdom and section 24 of the Finance Act 1953 (under which income applied outside the United Kingdom in payment of debts is, in certain cases, treated as received in the United Kingdom) shall apply as it would apply for purposes of section 132(3) of the Income Tax Act 1952 if the gain were income arising from possessions out of the United Kingdom.
- (7) Where two or more persons carry on a trade or business in partnership—
 - (a) tax in respect of chargeable gains accruing to them on the disposal of any partnership assets shall, in Scotland as well as elsewhere in the United Kingdom, be assessed and charged on them separately, and
 - (b) any partnership dealings shall be treated as dealings by the partners and not by the firm as such, and
 - (c) section 147 of the Income Tax Act 1952 (residence of partnerships) shall apply in relation to tax chargeable in pursuance of this Part of this Act as it applies in relation to income tax.
- (8) This Part of this Act shall apply in relation to any unit trust scheme (as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940) as if the scheme were a company, as if the rights of the unit holders were shares in the company, and in the case of an authorised unit trust scheme within the meaning of section 71 of the Finance Act 1960 as if the company were resident and ordinarily resident in the United Kingdom.
- (9) Any provision in this Part of this Act introducing the assumption that assets are sold and immediately re-acquired shall not imply that any expenditure is incurred as incidental to the sale or re-acquisition.
- (10) Any reference in any Act passed before this Act and, unless the contrary is expressly provided, in any Act passed with or after this Act, to duties leviable on death shall not

include a reference to capital gains tax and references to profits or gains in the Income Tax Acts shall not include references to chargeable gains.

(11) Section 512 of the Income Tax Act 1952 (which overrides exemptions under local Acts and other special exemptions) shall apply in relation to tax chargeable in pursuance of this Part of this Act as it applies in relation to income tax.

(12) Schedule 10 to this Act (administration) shall have effect for the purposes of this Act.