

SCHEDULES.

SCHEDULE 7

Section 22.

CAPITAL GAINS: MISCELLANEOUS RULES.

Appropriations to and from stock in trade.

- 1 (1) Subject to sub-paragraph (3) below, where an asset acquired by a person otherwise than as trading stock of a trade carried on by him is appropriated by him for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise) and, if he had then sold the asset for its market value, a gain or loss would have accrued to him, he shall be treated as having thereby disposed of the asset by selling it for its then market value.
- (2) Where an asset forming part of the trading stock of a person's trade is appropriated by him for any other purpose, or is retained by him on his ceasing to carry on the trade, he shall be treated as having acquired it for a consideration equal to the amount brought into the accounts of the trade in respect of it for tax purposes on the appropriation or on his ceasing to carry on the trade, as the case may be.
- (3) Sub-paragraph (1) above shall not apply in relation to a person's appropriation of an asset for the purposes of a trade if he is chargeable to income tax in respect of the profits of the trade under Case I of Schedule D, and elects that instead the market value of the asset at the time of the appropriation shall, in computing the profits of the trade for purposes of tax, be treated as reduced by the amount of the gain or increased by the amount of the loss referred to in that sub-paragraph, and where that sub-paragraph does not apply by reason of such an election, the profits of the trade shall be computed accordingly:

Provided that if a person making an election under this sub-paragraph is at the time of the appropriation carrying on the trade in, partnership with others, the election shall not have effect unless concurred in by the others.

Dealings in marketable securities, commodities, etc.

- 2 (1) Any number of shares of the same class held by one person in one capacity shall for the purposes of this Part of this Act be regarded as indistinguishable parts of a single asset (in this paragraph referred to as a holding) growing or diminishing on the occasions on which additional shares of the class in question are acquired, or some of the shares of the class in question are disposed of.
- (2) Without prejudice to the generality of the foregoing sub-paragraph, a disposal of shares in a holding, other than the disposal outright of the entire holding, is a disposal of part of an asset and the provisions of this Part of this Act relating to the computation of a gain accruing on a disposal of part of an asset shall apply accordingly.

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- (3) Shares shall not be treated for the purposes of this paragraph as being of the same class unless they are so treated by the practice of a recognised stock exchange in the United Kingdom or elsewhere or would be so treated if dealt with on such a stock exchange, but shares shall be treated in accordance with this paragraph notwithstanding that they are identified in some other way by the disposal or by the transfer or delivery giving effect to it.
- (4) A person's holding shall not include any shares the disposal of which by him is chargeable to Case VII of Schedule D (that is to say where the acquisition and disposal of the shares by him is in circumstances such that a gain accruing from it is or would have been chargeable to income tax under Case VII of Schedule D), and for the purposes of this sub-paragraph the shares so disposed of shall be identified with shares acquired by that person as provided by paragraph 8 of Schedule 9 to the Finance Act 1962.
- (5) This paragraph shall apply separately in relation to any shares held by a person to whom they were issued as an employee of the company or of any other person on terms which restrict his rights to dispose of them, so long as those terms are in force, and, while applying separately to any such shares, shall have effect as if the owner held them in a capacity other than that in which he holds any other shares of the same class.
- (6) Nothing in this paragraph shall be taken as affecting the manner in which the market value of any asset is to be ascertained.
- (7) This paragraph, without sub-paragraph (3), shall apply in relation to a disposal of any assets as they apply in relation to a disposal of shares, where the assets are of a nature to be dealt in without identifying the particular assets disposed of or acquired.
- (8) This paragraph applies in relation to securities of a company as it applies in relation to shares.

Capital distributions by companies.

- 3 (1) Where a person receives or becomes entitled to receive in respect of shares in a company any capital distribution from the company (other than a new holding as defined in paragraph 4 of this Schedule) he shall be treated as if he had in consideration of that capital distribution disposed of an interest in the shares.
- (2) If the inspector is satisfied that the amount of any capital distribution is small, as compared with the value of the shares in respect of which it is made, and so directs, the occasion of the capital distribution shall not be treated for the purposes of this Part of this Act as a disposal of the asset, but the amount or value of the capital distribution shall be deducted from any expenditure allowable under any Part of this Act as a deduction in computing a gain or loss on the disposal of the shares by the person receiving or becoming entitled to receive the distribution of capital.
- (3) A person who is dissatisfied with the refusal of the inspector to give a direction under this paragraph may appeal to the Commissioners having jurisdiction on an appeal against an assessment to tax in respect of a gain accruing on the disposal.
- (4) In this paragraph " capital distribution " means any distribution from a company, including a distribution in the course of dissolving or winding up the company, in money or money's worth except a distribution which in the hands of the recipient constitutes income for the purposes of income tax.

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Reorganisation of share capital, conversion of securities, etc.

- 4 (1) This paragraph shall apply in relation to any reorganisation or reduction of a company's share capital; and for the purposes of this paragraph—
- (a) references to a reorganisation of a company's share capital include—
 - (i) any case where persons are, whether for payment or not, allotted shares in or debentures of the company in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of shares in the company or of any class of shares in the company; and
 - (ii) any case where there are more than one class of share and the rights attached to shares of any class are altered ; and
 - (b) " original shares " means shares held before and concerned in the reorganisation or reduction of capital, and " new holding" means, in relation to any original shares, the shares in and debentures of the company which as a result of the reorganisation or reduction of capital represent the original shares (including such, if any, of the original shares as remain).
- (2) Subject to the following sub-paragraphs, a reorganisation or reduction of a company's share capital shall not be treated as involving any disposal of the original shares or any acquisition of the new holding or any part of it, but the original shares (taken as a single asset) and the new holding (taken as a single asset) shall be treated as the same asset acquired as the original shares were acquired.
- (3) Where, on a reorganisation or reduction of a company's share capital, a person gives or becomes liable to give any consideration for his new holding or any part of it, that consideration shall in relation to any disposal of the new holding or any part of it be treated as having been given for the original shares, and if the new holding or part of it is disposed of with a liability attaching to it in respect of that consideration, the consideration given for the disposal shall be adjusted accordingly:
- Provided that there shall not be treated as consideration given for the new holding or any part of it any surrender, cancellation or other alteration of the original shares or of the rights attached thereto, or any consideration consisting of any application in paying up the new holding or any part of it of assets of the company or of any dividend or other distribution declared out of those assets but not made.
- (4) Where, on a reorganisation or reduction of a company's share capital, a person receives (or is deemed to receive), or becomes entitled to receive, any consideration, other than the new holding, for the disposal of an interest in the original shares, and in particular—
- (a) where under paragraph 3 of this Schedule he is to be treated as if he had in consideration of a capital distribution disposed of an interest in the original shares, or
 - (b) where he receives (or is deemed to receive) consideration from other shareholders in respect of a surrender of rights derived from the original shares,
- he shall be treated as if the new holding resulted from his having for that consideration disposed of an interest in the original shares (but without prejudice to the original shares and the new holding being treated in accordance with sub-paragraph (2) above as the same asset).
- (5) Where for the purpose of computing the gain or loss accruing to a person from the acquisition and disposal of any part of the new holding it is necessary to apportion

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the cost of acquisition of any of the original shares between what is disposed of and what is retained, the apportionment shall be made by reference to market value at the date of the disposal (with such adjustment of the market value of any part of the new holding as may be required to offset any liability attaching thereto but forming part of the cost to be apportioned); and any corresponding apportionment for the purposes of sub-paragraph (4) above shall be made in like manner.

- (6) Where on a reorganisation of a company's share capital a person receives or becomes entitled to receive in respect of any shares a provisional allotment of shares in or debentures of the company, then unless he neither accepts the allotment nor disposes of his rights before or after the making of the allotment, those rights shall be treated in relation to him and in relation to any person acquiring them directly or indirectly from him as if they were the shares or debentures to which they relate and as if the consideration to be given for the shares or debentures were a liability attaching to the rights.
- (7) References in this paragraph to a reduction of share capital do not include the paying off of redeemable share capital, and where shares in a company are redeemed by the company otherwise than by the issue of shares or debentures (with or without other consideration) and otherwise than in a liquidation, the shareholder shall be treated as disposing of the shares at the time of the redemption.
- 5 (1) Subject to sub-paragraph (2) below, the last foregoing paragraph shall apply with any necessary adaptations in relation to the conversion of securities as it applies in relation to the reorganisation or reduction of a company's share capital.
- (2) If in consequence of a conversion on their redemption date of securities of one of the descriptions in Schedule 9 to this Act any securities of that description and a new holding of Government securities are, under paragraph 4(2) of this Schedule as applied by this paragraph, to be treated as the same asset acquired as the converted securities were acquired, and the adjusted purchase price (as defined in section 27(3) of this Act) of the converted securities is less than one hundred pounds then, in computing under Schedule 6 to this Act the gain accruing on the acquisition and disposal of the new holding, or any part of the new holding, there shall be added to the amount of the expenditure which is allowable as a deduction the amount of the gain which would have been exempted from being a chargeable gain by virtue of the said section 27(3) if the converted securities, or as the case may be the corresponding part of them, had been disposed of at the time of their redemption for a consideration equal to their nominal value.
- (3) For the purposes of this paragraph—
- (a) " conversion of securities " includes—
- (i) a conversion of securities of a company into shares in the company, and
- (ii) a conversion at the option of the holder of the securities converted as an alternative to the redemption of those securities for cash, and
- (iii) any exchange of securities effected in pursuance of any enactment (including an enactment passed after this Act) which provides for the compulsory acquisition of any shares or securities and the issue of securities or other securities instead, and
- (b) " security " includes any loan stock or similar security whether of the Government of the United Kingdom or of any other government, or of any public or local authority in the United Kingdom or elsewhere, or of any company, and whether secured or unsecured.

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Company amalgamations.

- 6 (1) Subject to the following sub-paragraphs, where a company issues shares or debentures to a person in exchange for shares in or debentures of another company, paragraph 4 above shall apply with any necessary adaptations as if the two companies were the same company and the exchange were a reorganisation of its share capital.
- (2) This paragraph shall apply only where the company issuing the shares or debentures has or in consequence of the exchange will have control of the other company, or where the first-mentioned company issues the shares or debentures in exchange for shares as the result of a general offer made to members of the other company or any class of them (with or without exceptions for persons connected with the first-mentioned company), the offer being made in the first instance on a condition such that if it were satisfied the first-mentioned company would have control of the other company.

- 7 (1) Where under any arrangement between a company and the persons holding shares in or debentures of the company or any class of such shares or debentures, being an arrangement entered into for the purposes of or in connection with a scheme of reconstruction or amalgamation, another company issues shares or debentures to those persons in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of the first-mentioned shares or debentures, but the first-mentioned shares or debentures are either retained by those persons or cancelled, then those persons shall be treated as exchanging the first-mentioned shares or debentures for those held by them in consequence of the arrangement (any shares or debentures retained being for this purpose regarded as if they had been cancelled and replaced by a new issue):

Provided that sub-paragraph (2) of the last foregoing paragraph shall not apply.

- (2) Where any scheme of reconstruction or amalgamation involves the transfer of the whole or part of a company's business to another company, and the first-mentioned company receives no part of the consideration for the transfer (otherwise than by the other company taking over the whole or part of the liabilities of the business), then the two companies shall be treated as if any assets included in the transfer were acquired by the one company from the other company for a consideration of such amount as would secure that on the disposal by way of transfer neither a gain or a loss would accrue to the company making the disposal, and for the purposes of Part II of Schedule 6 to this Act the acquiring company shall be treated as if the respective acquisitions of the assets by the other company had been the acquiring company's acquisition of them:

Provided that this sub-paragraph shall not apply in relation to an asset which, until the transfer, formed part of trading stock of a trade carried on by the company making the disposal or in relation to an asset which is acquired as trading stock for the purposes of a trade carried on by the company acquiring the asset.

- (3) In this paragraph " scheme of reconstruction or amalgamation " means a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and references to shares or debentures being retained include their being retained with altered rights or in an altered form, whether as the result of reduction, consolidation, division or otherwise.

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Transfer of business to a company.

- 8 (1) This paragraph shall apply where a business is transferred to a company as a going concern, together with the whole assets of the business, or together with the whole of those assets other than cash, and is so transferred wholly or partly in exchange for shares issued by the company to the person transferring the business.
- (2) Subject to this paragraph any gain accruing to the person transferring the business on his disposal of any asset included in the transfer, in so far as the consideration for it consists of shares so issued, shall not be a chargeable gain ; and any such asset, and such of the shares so issued as represent the consideration for it, shall be treated as the same asset acquired as the original asset was acquired.
- (3) For the purposes of this paragraph the consideration for the transfer of the business (where it does not consist wholly of shares of a single class) shall be allocated between the transfer and any other matter for which it is given, and between the assets included in the transfer, as follows :—
- (a) any part of the consideration consisting of liabilities of the business taken over with the business shall be treated so far as may be as consideration for the transfer, and as consideration for any cash included in the transfer; and
 - (b) any part of the consideration not consisting of any such liabilities nor of shares issued as mentioned in sub-paragraph (1) above shall as far as may be—
 - (i) be treated as consideration for matters other than the transfer; and
 - (ii) so far as it is not so treated, be treated as consideration for assets in the case of which the person making the transfer is (apart from sub-paragraph (2) above) chargeable by reference to the transfer in respect of his disposal of them ; and
 - (c) subject to paragraph (a) and (b) above, the consideration of any description shall (so far as necessary) be allocated between items rateably according to their amounts after taking account of any prior allocation thereto under those paragraphs.

Underwriters.

- 9 (1) An underwriting member of Lloyd's or of an approved association of underwriters shall, subject to the following provisions of this paragraph, be treated for the purposes of this Part of this Act as absolutely entitled as against the trustees to the investments of his premiums trust fund, his special reserve fund (if any) and any other trust fund required or authorised by the rules of Lloyd's or the association in question, or required by the underwriting agent through whom his business or any part of it is carried on, to be kept in connection with the business.
- (2) The trustees of any such fund shall, subject to the next following sub-paragraph, be assessed and charged to capital gains tax as if sub-paragraph (1) above had not been passed.
- (3) The assessment to be made on the trustees of a fund by virtue of sub-paragraph (2) above for any year of assessment shall not take account of losses accruing in any previous year of assessment, and if for that or any other reason the tax paid on behalf of an underwriting member for any year of assessment by virtue of assessments so made exceeds the capital gains tax for which he is liable, the excess shall, on a claim by him, be repaid.

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Policies of insurance.

- 10 (1) The rights of the insured under any insurance effected in the course of a capital redemption business as denned in section 431 of the Income Tax Act 1952 shall constitute an asset on the disposal of which a gain may accrue to the person making the disposal but subject to that neither the rights of the insurer nor the rights of the insured under any policy of insurance, whether the risks insured relate to property or not, shall constitute an asset on the disposal of which a gain may accrue.
- (2) Notwithstanding sub-paragraph (1) above, sums received under a policy of insurance of the risk of any kind of damage to, or the loss or depreciation of, assets are for the purposes of this Part of this Act, and in particular for the purposes of section 22(3) of this Act, sums derived from the assets.
- (3) In this paragraph " policy of insurance " does not include a policy of assurance on human life.

Debts and interests in settled property.

- 11 (1) Where a person incurs a debt to another, whether in sterling or in some other currency, no chargeable gain shall accrue to that (that is the original) creditor or his legatee on a disposal of the debt, except in the case of the debt on a security (as defined in paragraph 5 of this Schedule).
- (2) Subject to the provisions of paragraphs 5 and 6 of this Schedule (and subject to the foregoing sub-paragraph) the satisfaction of a debt or part of it (including a debt on a security as defined in paragraph 5 of this Schedule) shall be treated as a disposal of the debt or of that part by the creditor made at the time when the debt or that part is satisfied.
- (3) Where property is acquired by a creditor in satisfaction of his debt or part of it, then subject to the provisions of the said paragraphs 5 and 6 the property shall not be treated as disposed of by the debtor or acquired by the creditor for a consideration greater than its market value at the time of the creditor's acquisition of it; but if under sub-paragraph (1) of this paragraph (and in a case not falling within either of the said paragraphs 5 and 6) no chargeable gain is to accrue on a disposal of the debt by the creditor (that is the original creditor), and a chargeable gain accrues to him on a disposal by him of the property, the amount of the chargeable gain shall (where necessary) be reduced so as not to exceed the chargeable gain which would have accrued if he had acquired the property for a consideration equal to the amount of the debt or that part of it.
- (4) A loss accruing on the disposal of a debt acquired by the person making the disposal from the original creditor or his legatee at a time when the creditor or his legatee is a person connected with the person making the disposal, and so acquired either directly or by one or more purchases through persons all of whom are connected with the person making the disposal, shall not be an allowable loss.
- 12 No chargeable gain shall accrue to any person on the disposal of a right to, or to any part of—
- (a) any allowance, annuity or capital sum payable out of any superannuation fund, or under any superannuation scheme, established solely or mainly for persons employed in a profession, trade, undertaking or employment, and their dependants,

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- (b) an annuity granted otherwise than under a contract for a deferred annuity by a company as part of its business of granting annuities on human life, whether or not including instalments of capital, or an annuity granted or deemed to be granted under the Government Annuities Act 1929, or
 - (c) annual payments which are due under a covenant made by any person and which are not secured on any property.
- 13 (1) No chargeable gain shall accrue on the disposal of an interest created by or arising under a settlement (including, in particular, an annuity or life interest, and the reversion to an annuity or life interest) by the person for whose benefit the interest was created by the terms of the settlement or by any other person except one who acquired, or derives his title from one who acquired, the interest for a consideration in money or money's worth, other than consideration consisting of another interest under the settlement.
- (2) Subject to sub-paragraph (1) of this paragraph, where a person who has acquired an interest in settled property (including in particular the reversion to an annuity or life interest) becomes, as the holder of that interest, absolutely entitled as against the trustee to any settled property, he shall be treated as disposing of the interest in consideration of obtaining that settled property (but without prejudice to any gain accruing to the trustee on the disposal of that property deemed to be effected by him under section 25(3) of this Act).

Options.

- 14 (1) Without prejudice to the provisions of section 22 of this Act, the grant of an option, and in particular—
- (a) the grant of an option in a case where the grantor binds him self to sell what he does not own, and because the option is abandoned, never has occasion to own, and
 - (b) the grant of an option in a case where the grantor binds himself to buy what, because the option is abandoned, he does not acquire,
- is the disposal of an asset (namely of the option), but subject to the following provisions of this paragraph as to treating the grant of an option as part of a larger transaction.
- (2) If an option is exercised the grant of the option and the transaction entered into by the grantor in fulfilment of his obligations under the option shall be treated as a single transaction and accordingly—
- (a) if the option binds the grantor to sell, the consideration for the option is part of the consideration for the sale, and
 - (b) if the option binds the grantor to buy, the consideration for the option shall be deducted from the cost of acquisition incurred by the grantor in buying in pursuance of his obligations under the option.
- (3) The exercise or abandonment of an option by the person for the time being entitled to exercise it shall not constitute the disposal of an asset by that person, but, if an option is exercised then the acquisition of the option (whether directly from the grantor or not) and the transaction entered into by the person exercising the option in exercise of his rights under the option shall be treated as a single transaction and accordingly—
- (a) if the option binds the grantor to sell, the cost of acquiring the option shall be part of the cost of acquiring what is sold, and

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- (b) if the option binds the grantor to buy, the cost of the option shall be treated as a cost incidental to the disposal of what is bought by the grantor of the option.
- (4) In relation to the disposal by way of transfer of an option binding the grantor to sell or buy shares or securities which have a quoted market value on a recognised stock exchange in the United Kingdom or elsewhere, the option shall be regarded as a wasting asset the life of which ends when the right to exercise the option ends, or when the option becomes valueless, whichever is the earlier, but without prejudice to the application of the provisions in Schedule 6 to this Act relating to wasting assets to other descriptions of options.
- (5) In the case of an option relating to shares or securities this paragraph shall apply subject to the provisions of paragraph 2 of this Schedule and, accordingly, the option may be regarded in relation to the grantor or in relation to the person entitled to exercise the option, as relating to part of a holding of shares or securities as defined in the said paragraph 2.
- (6) This paragraph shall apply in relation to an option binding the grantor both to sell and to buy as if it were two separate options with half the consideration attributed to each.
- (7) In this paragraph references to an option include references to an option binding the grantor to grant a lease for a premium, or enter into any other transaction which is not a sale, and references to buying and selling in pursuance of an option shall be construed accordingly.
- (8) This paragraph shall apply in relation to a forfeited deposit of purchase money or other consideration money for a prospective purchase or other transaction which is abandoned as it applies in relation to the consideration for an option which binds the grantor to sell and which is not exercised.

Transactions involving gratuitous transfers of value derived from assets.

- 15 (1) Without prejudice to the generality of the provisions of this Part of this Act as to the transactions which are disposals of assets, any transaction which under the following sub-paragraphs is to be treated as a disposal of an asset shall be so treated (with a corresponding acquisition of an interest in the asset) notwithstanding that there is no consideration and so far as, on the assumption that the parties to the transaction were at arm's length, the party making the disposal could have obtained consideration, or additional consideration, for the disposal the transaction shall be treated as not being at arm's length and the consideration so obtainable, or the additional consideration so obtainable added to the consideration actually passing, shall be treated as the market value of what is acquired.
- (2) If a person having control of a company exercises his control so that value passes out of shares in the company owned by him or a person with whom he is connected, or out of rights over the company exercisable by him or by a person with whom he is connected, and passes into other shares in or rights over the company, that shall be a disposal of the shares or rights out of which the value passes by the person by whom they were owned or exercisable.
- (3) If, after a transaction which results in the owner of land or of any other description of property becoming the lessee of the property there is any adjustment of the rights and liabilities under the lease, whether or not involving the grant of a new lease, which is as a whole favourable to the lessor, that shall be a disposal by the lessee of an interest in the property.

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- (4) If an asset is subject to any description of right or restriction the extinction or abrogation, in whole or in part, of the right or restriction by the person entitled to enforce it shall be a disposal by him of the right or restriction.

Valuation of assets disposed of in a series of transactions.

- 16 If a person is given, or acquires from one or more persons with whom he is connected, by way of two or more gifts or other transactions, assets of which the aggregate market value, when considered separately in relation to the separate gifts or other transactions, is less than their aggregate market value when considered together, then for the purposes of this Part of this Act their market value, where, relevant, shall be taken to be the larger market value, to be apportioned rateably to the respective disposals.

Transactions between connected persons.

- 17 (1) This paragraph shall apply where a person acquires an asset and the person making the disposal is connected with him.
- (2) Without prejudice to the generality of section 22(4) of this Act the person acquiring the asset and the person making the disposal shall be treated as parties to a transaction otherwise than by way of a bargain made at arm's length.
- (3) If on the disposal a loss accrues to the person making the disposal, it shall not be deductible except from a chargeable gain accruing to him on some other disposal of an asset to the person acquiring the asset mentioned in sub-paragraph (1) above, being a disposal made at a time when they are connected persons.
- (4) Where the asset mentioned in sub-paragraph (1) above is an option to enter into a sale or other transaction given by the person making the disposal a loss accruing to the person acquiring the asset shall not be an allowable loss unless it accrues on a disposal of the option at arm's length to a person who is not connected with him.
- (5) In a case where the asset mentioned in sub-paragraph (1) above is subject to any right or restriction enforceable by the person making the disposal, or by a person connected with him, then (the amount of the consideration for the acquisition being, in accordance with sub-paragraph (2) of this paragraph, deemed to be equal to the market value of the asset) that market value shall be—
- (a) what its market value would be if not subject to the right or restriction, minus—
 - (b) the market value of the right or restriction or the amount by which its extinction would enhance the value of the asset to its owner, whichever is the less:

Provided that if the right or restriction is of such a nature that its enforcement would or might effectively destroy or substantially impair the value of the asset without bringing any countervailing advantage either to the person making the disposal or a person connected with him or is an option or other right to acquire the asset or, in the case of incorporeal property, is a right to extinguish the asset in the hands of the person giving the consideration by forfeiture or merger or otherwise, that market value of the asset shall be determined, and the amount of the gain accruing on the disposal shall be computed, as if the right or restriction did not

This sub-paragraph shall not apply to a right of forfeiture or other right exercisable on breach of a covenant contained in a lease of land or other property, and shall not apply to any right or restriction under a mortgage or other charge.

Shares in close company transferring assets at an undervalue.

- 18 (1) If after 6th April 1965 a company which is a close company as defined in Schedule 18 to this Act transfers an asset to any person otherwise than by way of a bargain made at arm's length and for a consideration of an amount or value less than the market value of the asset an amount equal to the difference shall be apportioned among the issued shares of the company, and the holders of those shares shall be treated in accordance with the following provisions of this paragraph.
- (2) For the purposes of the computation under Schedule 6 to this Act of a gain accruing on the disposal of any of those shares by the person owning them on the date of transfer an amount equal to the amount so apportioned to that share shall be excluded from the expenditure allowable as a deduction under paragraph 4(1)(a) of that Schedule from the consideration for the disposal.
- (3) If the person owning any of the said shares at the date of transfer is itself a close company as so defined an amount equal to the amount apportioned to the shares so owned under sub-paragraph (1) above to that close company shall be apportioned among the issued shares of that close company, and the holders of those shares shall be treated in accordance with sub-paragraph (2) above, and so on through any number of close companies.

Gifts: recovery of tax from donee.

- 19 (1) If in any year of assessment a chargeable gain accrues to any person on the disposal of an asset by way of gift and any amount of capital gains tax assessed on that person for that year of assessment is not paid within twelve months from the date when the tax becomes payable the donee may, by an assessment made not later than two years from the date when the tax became payable, be assessed and charged (in the name of the donor) to capital gains tax on an amount not exceeding the amount of the chargeable gain so accruing, and not exceeding the grossed up amount of that capital gains tax unpaid at the time when he is so assessed, grossing up at the marginal rate of tax, that is to say taking capital gains tax on a chargeable gain at the amount which would not have been chargeable but for that chargeable gain.
- (2) A person paying any amount of tax in pursuance of this paragraph shall be entitled to recover a sum of that amount from the donor.
- (3) References in this paragraph to a donor include, in the case of an individual who has died, references to his personal representatives.
- (4) In this paragraph references to a gift include references to any transaction otherwise than by way of a bargain made at arm's length so far as money or money's worth passes under the transaction without full consideration in money or money's worth, and " donor " and " donee " shall be construed accordingly; and this paragraph shall apply in relation to a gift made by two or more donors with the necessary modifications and subject to any necessary apportionments.

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Husband and wife.

- 20 (1) If, in any year of assessment, and in the case of a woman who in that year of assessment is a married woman living with her husband, the man disposes of an asset to the wife, or the wife disposes of an asset to the man, both shall be treated 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 or a loss would accrue to the one making the disposal.
- (2) This paragraph shall not apply—
- (a) if until the disposal the asset formed part of trading stock of a trade carried on by the one making the disposal, or if the asset is acquired as trading stock for the purposes of a trade carried on by the one acquiring the asset, or
 - (b) if the disposal is on the occasion of the death of the one making the disposal, but this paragraph shall have effect notwithstanding the provisions of paragraph 1 of this Schedule or of any other provisions of this Part of this Act fixing the amount of the consideration deemed to be given on a disposal or acquisition.

Connected persons.

- 21 (1) Any question whether a person is connected with another shall for the purposes of this Part of this Act be determined in accordance with the following sub-paragraphs of this paragraph (any provision that one person is connected with another being taken to mean that they are connected with one another).
- (2) A person is connected with an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual's husband or wife.
 - (3) A person, in his capacity as trustee of a settlement, is connected with any individual who in relation to the settlement is a settlor, with any person who is connected with such an individual and with a body corporate which, under section 411(4) of the Income Tax Act 1952 is deemed to be connected with that settlement ("settlement" and "setdor" having for the purposes of this sub-paragraph the meanings assigned to them by Chapter III of Part XVIII of the Income Tax Act 1952).
 - (4) Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements, a person is connected with any person with whom he is in partnership, and with the husband or wife or a relative of any individual with whom he is in partnership.
 - (5) A company is connected with another company—
 - (a) if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other; or
 - (b) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected.
 - (6) A company is connected with another person, if that person has control of it or if that person and persons connected with him together have control of it.
 - (7) Any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with

any person acting on the directions of any of them to secure or exercise control of the company.

(8) In this paragraph " relative " means brother, sister, ancestor or lineal descendant.