SCHEDULES.

SCHEDULE 8

Section 22.

CAPITAL GAINS: LEASES.

Leases of land as wasting assets: curved line restriction of allowable expenditure.

1 (1) A lease of land shall not be a wasting asset until the time when its duration does not exceed fifty years.

(2) If at the beginning of the period of ownership of a lease of land it is subject to a sub-lease not at a rackrent and the value of the lease at the end of the duration of the sub-lease, estimated as at the beginning of the period of ownership, exceeds the expenditure allowable under paragraph 4(1)(a) of Schedule 6 to this Act in computing the gain accruing on a disposal of the lease, the lease shall not be a wasting asset until the end of the duration of the sub-lease.

(3) In the case of a wasting asset which is a lease of land the rate at which expenditure is assumed to be written off shall, instead of being a uniform rate as provided by paragraph 10 of Schedule 6 to this Act, be a rate fixed in accordance with the Table below.

(4) Accordingly, for the purposes of the computation under the said Schedule 6 of the gain accruing on a disposal of a lease, and given that—

(a) the percentage derived from the Table for the duration of the lease at the beginning of the period of ownership is P(1),

(b) the percentage so derived for the duration of the lease at the time when any item of expenditure attributable to the lease under paragraph 4(1)(b) of Schedule 6 to this Act is first reflected in the nature of the lease is P(2), and

(c) the percentage so derived for the duration of the lease at the time of the disposal is P(3),

then—

(i) there shall be excluded from the expenditure attributable to the lease under the said paragraph 4(1)(a) a fraction equal to

$$\frac{P(1)—P(3)}{P(1)}$$

and

(ii) there shall be excluded from any item of expenditure attributable to the lease under the said paragraph 4(1)(b) a fraction equal to

$$\frac{P(2)—P(3)}{P(2)}$$

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(5) This, paragraph applies notwithstanding that the period of ownership of the lease is a period exceeding fifty years and, accordingly, no expenditure shall be written off

under this paragraph in respect of any period earlier than the time when the lease becomes a wasting asset.

(6) Paragraph 11 of Schedule 6 to this Act shall apply in relation to this paragraph as it applies in relation to paragraph 10 of that Schedule.

TABLE

Years	Percentage
50 (or more)	100
49	99.657
48	99.289
47	98.902
46	98.490
45	98.059
44	97.595
43	97.107
42	96.593
41	96.041
40	95.457
39	94.842
38	94.189
37	93.497
36	92.761
35	91.981
34	91.156
33	90.280
32	89.354
31	88.371
30	87.330
29	86.226
28	85.053
27	83.816
26	82.496
25	81.100
24	79.622

If the duration of the lease is not an exact number of years the percentage to be derived from the Table above shall be the percentage for the whole number of years plus one twelfth of the difference between that and the percentage for the next higher number of years for each odd month counting an odd 14 days or more as one month.

Years	Percentage
23	78.055
22	76.399
21	74.635
20	72.770
19	70.791
18	68.697
17	66.470
16	64.116
15	61.617
14	58.971
13	56.167
12	53.191
11	50.038
10	46.695
9	43.154
8	39.399
7	35.414
6	31.195
5	26.722
4	21.983
3	16.959
2	11.629
1	5.983
0	0

If the duration of the lease is not an exact number of years the percentage to be derived from the Table above shall be the percentage for the whole number of years plus one twelfth of the difference between that and the percentage for the next higher number of years for each odd month counting an odd 14 days or more as one month.

Premiums for leases.

2 (1) Subject to this Schedule where the payment of a premium is required under a lease of land, or otherwise under the terms subject to which a lease of land is granted, there is a part disposal of the freehold or other asset out of which the lease is granted.

(2) In applying paragraph 7 of Schedule 6 to this Act to such a part disposal, the property which remains undisposed of includes a right to any rent or other payments, other than a premium, payable under the lease, and that right shall be valued as at the time of the part disposal.

3 (1) This paragraph applies in relation to a lease of land.

(2) Where, under the terms subject to which a lease is granted, a sum becomes payable by the tenant in lieu of the whole or part of the rent for any period, or as consideration for the surrender of the lease, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum for the period in relation to which the sum is payable.

(3) Where, as consideration for the variation or waiver of any of the terms of a lease, a sum becomes payable by the tenant otherwise than by way of rent, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum for the period from the time when the variation or waiver takes effect to the time when it ceases to have effect.

(4) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, then subject to sub-paragraph (5) below, both the landlord and the tenant shall be treated as if that - premium were, or were part of, the consideration for the grant of the lease due at the time when the lease was granted, and the gain accruing to the landlord on the disposal by way of grant of the lease shall be recomputed and any necessary adjustments of tax, whether by way of assessment for the year in which the premium is deemed to have been received, or by way of discharge or repayment of tax made accordingly.

(5) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, and the landlord is a tenant under a lease the duration of which does not exceed fifty years this Schedule shall apply as if an amount equal to the amount of that premium deemed to have been received had been given by way of consideration for the grant of the part of the sub-lease covered by the period in respect of which the premium is deemed to have been paid as if that consideration were expenditure incurred by the sub-lessee and attributable to that part of the sub-lease under paragraph (4)(1)(b) of Schedule 6 to this Act.

(6) Where under sub-paragraph (2) above a premium is deemed to have been received as consideration for the surrender of a lease the surrender of the lease shall not be the occasion of any re-computation of the gain accruing on the receipt of any other premium, and the premium which is consideration for the surrender of the lease shall be regarded as consideration for a separate transaction consisting of the disposal by the landlord of his interest in the lease.

(7) Sub-paragraph (3) above shall apply in relation to a transaction not at arm's length, and in particular in relation to a transaction entered into gratuitously, as if such sum had become payable by the tenant otherwise than by way of rent as might have been required of him if the transaction had been at arm's length.

Sub-leases out of short leases.

4 (1) In the computation under Schedule 6 to this Act of the gain accruing on the part disposal of a lease which is a wasting asset by way of the grant of a sub-lease for a premium the expenditure attributable to the lease under paragraph 4(1)(a) and 4(1)(b) of Schedule 6 to this Act shall be apportioned in accordance with this paragraph, and paragraph 7 of Schedule 6 to this Act shall not apply.

(2) Out of each item of the expenditure attributable to the lease under the said paragraph 4(1)(a) and 4(1)(b) there shall be apportioned to what is disposed of—

(a) if the amount of the premium is not less than what would be obtainable by way of premium for the said sub-lease if the rent payable under that sub-lease were the same as the rent payable under the lease, the fraction which, under paragraph 1(3) of this Schedule, is to be written off over the period which is the duration of the sub-lease, and

(b) if the amount of the premium is less than the said amount so obtainable, the said fraction multiplied by a fraction equal to the amount of the said premium divided by the said amount so obtainable.

(3) If the sub-lease is a sub-lease of part only of the land comprised in the lease this paragraph shall apply only in relation to a proportion of the expenditure attributable to the lease under the said paragraph 4(1)(a) and 4(1)(b) which is the same as the proportion which the value of the land comprised in the sub-lease bears to the value of that and the other land comprised in the lease; and the remainder of that expenditure shall be apportioned to what remains undisposed of.

Exclusion of premiums taxed under Case VIII of Schedule D, etc.

5 (1) Where by reference to any premium income tax has become chargeable under section 22 of the Finance Act 1963 on any amount, that amount out of the premium shall be excluded from the consideration brought into account in the computation under paragraph 7 of Schedule 6 to this Act, except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made.

(2) Where by reference to any premium in respect of a sub-lease granted out of a lease the duration of which (that is of the lease) does not, at the time of granting the lease, exceed fifty years, income tax has become chargeable under the said section 22 on any amount that amount shall be deducted from any gain accruing on the disposal for which the premium is consideration as computed in accordance with the provisions of this Part of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or to increase any loss.

(3) If under section 22(6) of the said Act (premiums payable by instalments) a claim is made as respects any amount, the whole of that amount shall be so excluded or deducted, and on the allowance of the claim all such adjustments shall be made, whether by discharge or repayment of tax or otherwise, as are required to give effect to the provisions of this sub-paragraph.

(4) Where income tax has become chargeable under section 24 of the Finance Act 1963 (sale of land with right of re-conveyance) on any amount a sum of that amount shall be excluded from the consideration brought into account in the computation under Schedule 6 to this Act of a gain accruing on the disposal of the estate or interest in respect of which income tax becomes so chargeable, except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made under paragraph 7 of the said Schedule 6:

Provided that if what is disposed of is the remainder of a lease or a sub-lease out of a lease the duration of which does not exceed fifty years the foregoing provisions of this sub-paragraph shall not apply but the said amount shall be deducted from any gain accruing on the disposal as computed in accordance with the provisions of this

Part of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or to increase any loss.

(5) References in sub-paragraph (1) and (2) above to a premium include references to a premium deemed to have been received under subsection (3) or subsection (4) of section 22 of the Finance Act 1963 (which correspond to paragraph 3(2)(3) of this Schedule).

(6) Paragraph 2 of Schedule 6 to this Act shall not be taken as authorising the exclusion of any amount from the consideration for a disposal of assets taken into account in the computation under that Schedule by reference to any amount chargeable to tax under Chapter II of Part II of the Finance Act 1963.

6 (1) If under paragraph 9(1) of Schedule 4 to the Finance Act 1963 (allowance where, by the grant of a sub-lease, a lessee has converted a capital amount into a right to income) a person is to be treated as paying additional rent in consequence of having granted a sub-lease, the amount of any loss accruing to him on the disposal by way of the grant of the sub-lease shall be reduced by the total amount of rent which he is thereby treated as paying over the term of the sub-lease (and without regard to whether relief is thereby effectively given over the term of the sub-lease), but not so as to convert the loss into a gain, or to increase any gain.

(2) Nothing in paragraph 2 of Schedule 6 to this Act shall be taken as applying in relation to any amount on which tax is paid under section 23 of the Finance Act 1963 (charge on assignment of lease granted at undervalue).

(3) If any adjustment is made under section 24(2)(b) of the Finance Act 1963 on a claim under that paragraph, any necessary adjustment shall be made to give effect to the consequences of the claim on the operation of this or the last foregoing paragraph.

7 If under section 22(2) of the Finance Act 1963 income tax is chargeable on any amount, as being a premium the payment of which is deemed to be required by the lease, the person so chargeable shall be treated for the purposes of the computation of any gain accruing to him on a disposal of the lease as having incurred at the time the lease was granted expenditure of that amount (in addition to any other expenditure) attributable to the asset under paragraph 4(1)(b) of Schedule 6 to this Act.

Terminable and renewable leases.

8 In ascertaining for the purposes of this Schedule the duration of a lease of land, the following provisions shall have effect—

(a) where the terms of the lease include provision for the determination thereof by notice given either by the landlord or by the tenant, the lease shall not be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice;

(b) where any of the terms of the lease (whether relating to forfeiture or to any other matter) or any other circumstances render it unlikely that the lease will continue beyond a date falling before the expiration of the term of the lease, the lease shall not be treated as having been granted for a term longer than one ending on that date:

Provided that where the duration of a lease falls to be ascertained after a date on which the lease has for any reason come to an end, the duration shall be taken to have extended from its commencement to that date, and where the duration falls to

be ascertained at a time when the lease is subsisting the provisions of the foregoing paragraphs shall be applied in accordance with circumstances prevailing at that time.

Leases of property other than land.

9 (1) Paragraphs 2, 3, 4 and 8 of this Schedule shall apply in relation to leases of property other than land as they apply to leases of land, but subject to any necessary modifications.

(2) Where by reference to any capital sum within the meaning of section 17 of the Finance Act 1964 (leases of assets other than land) any person has been charged to income tax on any amount, that amount out of the capital sum shall be deducted from any gain accruing on the disposal for which that capital sum is consideration, as computed in accordance with the provisions of this Part of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or increase any loss.

(3) In the case of a lease of a wasting asset which is movable property the lease shall be assumed to terminate not later than the end of the life of the wasting asset.

Interpretation.

10 (1) In this Schedule " premium " includes any like sum, whether payable to the intermediate or a superior landlord, and for the purposes of this Schedule any sum (other than rent) paid on or in connection with the granting of a tenancy shall be presumed to have been paid by way of premium except in so far as other sufficient consideration for the payment is shown to have been given.

(2) In the application of this Schedule to Scotland " premium " includes in particular a grassum payable to any landlord or intermediate landlord on the creation of a sub-lease.