SCHEDULES

SCHEDULE 6

AMENDMENTS IN CONNECTION WITH CHARGE UNDER SCHEDULE A

The Taxes Act 1988

1 Subsection (2) of section 15 of the Taxes Act 1988 (election under paragraph 4 of Schedule A) shall cease to have effect except for the purpose of being applied by virtue of section 9 of that Act for the purposes of corporation tax.

2 In section 18(3) of that Act (Cases under Schedule D), in Case I, at the end there shall be inserted "but not contained in Schedule A".

3 Sections 22 and 23 of that Act (assessments to income tax under Schedule A and collection from lessees and agents) shall cease to have effect.

4 The following provisions of Part II of that Act shall cease to have effect except for the purpose of being applied by virtue of section 9 of that Act for the purposes of corporation tax, that is to say—

(a) sections 25 and 28 (deductions from rent);

(b) section 29 (sporting rights);

(c) section 31 (supplementary provisions);

(d) section 33 (allowance for excess expenditure in relation to agricultural land);

(e) sections 33A and 33B (rents and receipts received by connected persons and payments made by connected persons);

(f) subsection (5) of section 40 (application of Schedule A rules as to receipts and outgoings on sale of land); and

(g) section 41 (relief for rent not paid).

5 (1) Section 26 of that Act (land managed as one estate), except where it is applied for the purposes of corporation tax, shall have effect with the following modifications.

(2) Subsection (1) shall have effect as if—

(a) in paragraph (a), the words "at a full rent (not being a tenant's repairing lease)" were omitted; and

(b) for the words from "not being" in paragraph (b) to the end of the subsection there were substituted "as if the rent, so far as it relates to that part and would otherwise be treated as being at a lower rate, were at a rate per annum equal to the relevant annual value."

(3) Subsection (2) shall have effect as if paragraph (a) were omitted.

(4) The following subsection shall be deemed to be inserted after subsection (2)—

"(2A) Where subsection (1) above applies, the following rules shall apply in computing the profits or gains on which the owner is charged under Schedule A—

(a) disbursements and expenses relating to any of that part of the estate which comprises land the rent in respect of which is determined under that subsection ("the relevant part of the estate") shall not be deductible from any receipts which are not so determined except to the extent that—

(i) the amount of the disbursements and expenses exceeds the amount of the rent so determined; and

(ii) the receipts against which the remainder is set are receipts in respect of land comprised in the estate;

(b) any excess for any chargeable period of the disbursements and expenses relating to the relevant part of the estate (including any excess carried forward under this paragraph) over the receipts for that period from which they are deductible in accordance with paragraph (a) above—

(i) shall be disregarded in computing any loss in respect of which relief may be given under section 379A, but

(ii) may be carried forward to the following chargeable period and treated in relation to the later period as if it were a disbursement or expense relating to the relevant part of the estate;

(c) disbursements and expenses relating to any land not comprised in the relevant part of the estate shall be deductible from the deemed receipts in respect of the land which is so comprised to the extent only that the deemed receipts exceed the aggregate of—

(i) the actual disbursements and expenses for that period relating to the relevant part of the estate, and

(ii) any amounts carried forward to that period under paragraph (b) above;

and

(d) any excess of the disbursements and expenses for that period relating to land not comprised in the relevant part of the estate over the amounts from which they are deductible shall be treated for the purposes of section 379A as a loss for that period in the Schedule A business in question."

6 (1) Subsection (3)(a) of section 27 of that Act (maintenance funds for historic buildings), except where it is applied for the purposes of corporation tax, shall be construed subject to subsection (2A) of section 26 (as deemed to be inserted by paragraph 5 above) and shall have effect as if—

(a) in the words before sub-paragraph (i), for "rents" there were substituted "receipts";

(b) in sub-paragraph (i), for the words from "payments" to "section 25" there were substituted "disbursements or expenses of the trustees of the settlement which relate to the other part of the estate and which would be so deductible"; and

(c) for sub-paragraph (ii) there were substituted the following sub-paragraph—

"(ii) any disbursements or expenses of the owner of the other part of the estate to the extent to which they cannot be deducted by him in the chargeable period in which they are incurred because of an insufficiency of any receipts for that period from

which they are deductible apart from this sub-paragraph."

(2) Subsection (3)(b) of that section shall have effect, except where it is so applied, as if for "under section 33" there were substituted "by virtue of section 379A(2)(b)".

7 Section 30(1) of that Act (expenditure on sea walls), except where it is applied for the purposes of corporation tax, shall have effect as if—

(a) for "for the purposes of sections 25, 28 and 31" there were substituted "for the purpose of computing the profits or gains, or losses, of any Schedule A business carried on in relation to those premises"; and

(b) for "in respect of dilapidation attributable to the year" there were substituted "as an expense of the business for that year".

8 (1) Section 32 of that Act (capital allowances for machinery and plant used in estate management), except where it is applied for the purposes of corporation tax, shall have effect with the following modifications.

(2) Subsection (1) shall have effect as if—

(a) for the words from "entitled" to "arise" there were substituted "for the purposes of a Schedule A business"; and

(b) at the end there were inserted "set up and commenced on or after 6th April 1995 and as if that business were that person's trade".

(3) The following subsections shall be deemed to be inserted after that subsection—

"(1A) Subsection (1) above and the 1990 Act shall have effect, subject to subsections (1B) and (1C) below—

(a) as if the purposes for which a Schedule A business is to be treated as a trade did not include the purposes of so much of sections 61 and 67(2) of that Act (leased plant or machinery and expenditure on thermal insulation) as makes provision in relation to cases where machinery or plant or, as the case may be, an industrial building or structure has been let otherwise than in the course of a trade; and

(b) as if expenditure which for the purposes of section 61 of that Act is or falls to be treated as expenditure on the provision of machinery or plant first let otherwise than in the course of a trade were to be treated in all cases as expenditure on the provision of machinery or plant which, at the time when it is let or treated as let, is used for purposes which are other than those of a Schedule A business.

(1B) Section 73(2) and (3) of the 1990 Act shall not apply in the case of any allowance or charge by virtue of section 61(1) of that Act where the letting of the machinery or plant is in connection with anything done in the course of the carrying on of a Schedule A business; and in such a case, the allowance or charge shall be made in taxing the business as if the business were the trade of the person carrying on the business and were a trade set up and commenced on or after 6th April 1995.

(1C) Any allowance made by virtue of section 61(1) of the 1990 Act in a case where it applies by virtue of section 67(2) of that Act shall be made as mentioned in subsection (1B) above as if (in so far as it is not otherwise the case)—

(a) the person to whom the allowance is made were carrying on a Schedule A business; and

(b) the letting of the machinery or plant which is deemed under section 67(2) of that Act to have taken place had been a letting in connection with the carrying on of the Schedule A business which is carried on, or treated as carried on, by that person."

(4) Subsections (2) to (6), and in subsection (7), the words from "and, on any assessment" onwards shall be deemed to be omitted.

9 (1) Section 34 of that Act (premiums), except where it is applied for the purposes of corporation tax, shall have effect with the following modifications.

(2) Subsection (3) shall have effect as if for the words from "from the rent" onwards there were substituted "as an expense of any Schedule A business carried on by the landlord".

(3) Subsection (4) shall have effect as if in paragraph (a), for the words from "in computing" to "in lieu of rent" there were substituted "in computing the profits or gains, or losses, of the Schedule A business of which the sum payable in lieu of rent is by virtue of this subsection to be treated as a receipt".

(4) Subsection (5) shall have effect as if in paragraph (a), for "tax chargeable by virtue of this subsection" there were substituted "the profits or gains, or losses, of the Schedule A business of which that sum is by virtue of this subsection to be treated as a receipt".

(5) Subsection (6) shall have effect as if for the words from "no charge" onwards there were substituted "no amount shall fall under that subsection to be treated as a receipt of any Schedule A business carried on by the landlord; but that other person shall be taken to have received as income an amount equal to the amount which would otherwise fall to be treated as rent and to be chargeable to tax as if he had received it in consequence of having, on his own account, entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A."

10 Section 35(2) of that Act (charge on assignment of lease granted at an undervalue), except where it is applied for the purposes of corporation tax, shall have effect as if for the words from "treated as profits or gains" onwards there were substituted "deemed to have been received as income by the assignor and to have been received by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A."

11 Section 36(1) of that Act (charge on sale of land with a right to a reconveyance), except where it is applied for the purposes of corporation tax, shall have effect as if—

(a) for "the vendor shall be chargeable to tax under Case VI of Schedule D on" there were substituted "the following amount shall be deemed to have been received as income by the vendor and to have been received by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A, that is to say"; and

(b) for "on that excess" there were substituted "the amount of the excess".

12 (1) Section 37 of that Act (deductions from premiums and rents received), except where it is applied for the purposes of corporation tax, shall have effect with the following modifications.

(2) Subsection (1) shall have effect as if for paragraphs (a) and (b) there were substituted the following paragraphs—

"(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35; or

(b) any amount would fall to be so treated but for the operation of subsection (2) or (3) below;".

(3) Subsection (2) shall have effect as if—

(a) in paragraph (b), for the words from "be" to "any amount" there were substituted "be treated by virtue of section 34 or 35 as receiving any amount as income in the course of carrying on a Schedule A business"; and

(b) for "on which he is so chargeable" there were substituted "which he shall be treated as having so received".

(4) Subsection (3) shall have effect as if—

(a) for "chargeable under section 34 or 35" there were substituted "treated by virtue of section 34 or 35 as having received any amount as income in the course of carrying on a Schedule A business and falls to be so treated"; and

(b) for "on which he is so chargeable" there were substituted "which he shall be treated as having so received".

(5) Subsection (4) shall have effect as if for the words from "purposes" to "other premises" there were substituted "purpose, in computing the profits or gains, or losses, of a Schedule A business, of making deductions in respect of the disbursements and expenses of that business".

13 In subsection (6) of section 82 of that Act (rules as to interest paid to non-residents not to apply for the purposes of corporation tax), at the end there shall be inserted "and shall be treated as excluded from the provisions that have effect by virtue of section 21(3) for the computation of the profits or gains, or losses, of a Schedule A business."

14 (1) Subsection (1) of section 87 of that Act (taxable premiums), except where it is applied for the purposes of corporation tax, shall have effect as if for paragraphs (a) and (b) there were substituted the following paragraphs—

"(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35; or

(b) any amount would fall to be so treated but for the operation of section 37(2) or (3);".

(2) After subsection (9) of that section there shall be inserted the following subsection—

"(10) This section shall not apply for the computation in accordance with section 21(3) of the amount of any profits or gains to be charged to tax under Schedule A."

15 In section 96(11) of that Act (relief for fluctuating profits of farming or market gardening not to apply for corporation tax purposes), after "corporation tax" there shall be inserted "or to any profits or gains chargeable to income tax under Schedule A."

16 (1) In subsection (5) of section 98 of that Act (tied premises)—

(a) in paragraph (a), for "in respect of the rent" there shall be substituted "to tax chargeable under that Schedule"; and

(b) in paragraph (b), for "his total liability (so computed) in respect of the rent" there shall be substituted "the liability so computed".

(2) After subsection (8) of that section there shall be inserted the following subsection—

"(9) The references in this section to a trade shall not by virtue of section 21(3) have effect, for the purposes of the computation of profits or gains chargeable to tax under Schedule A, as including a Schedule A business."

17 In section 368(3) and (4) of that Act (exclusion of double relief for interest), after "for the purposes of", in each case, there shall be inserted "Schedule A or".

18 After section 375 of that Act there shall be inserted the following section—

"**375A Option to deduct interest for the purposes of Schedule A.**

(1) If an individual who is a qualifying borrower with respect to any interest on a loan which is relevant loan interest—

(a) is carrying on or proposing to carry on a Schedule A business, and

(b) gives notice to the Board that deductions are to be made in respect of payments of interest on that loan in computing the profits or gains of that business,

then (subject to the following provisions of this section) section 369 shall not apply to any payment of interest on that loan which becomes due or is made on or after such date as may be specified for the purposes of this subsection in the notice.

(2) A notice specifying a date for the purposes of subsection (1) above—

(a) may be given at any time before the end of the period of twenty-two months beginning with the end of the year of assessment in which that date falls, but

(b) once given, shall not be withdrawn.

(3) Where notice is given to the Board under subsection (1) above, the Board shall give notice to the lender and the borrower specifying a date, not being a date before either—

(a) the date specified for the purposes of that subsection, or

(b) the date on which the notice under this subsection is given to the lender,

as the date on or after which payments of interest on the loan are to be treated in relation to the lender as payments of interest to which section 369 does not apply.

(4) Subsections (2) and (3) of section 375 shall have effect in relation to any period between—

(a) the beginning of any date specified for the purposes of subsection (1) above, and

(b) the date specified in that case in the notice given under subsection (3) above,

as they apply, in the case of any relevant loan interest, in relation to the period between the time when the borrower ceases to be a qualifying borrower and the date on which he gives notice of that fact to the lender.

(5) Where a notice under subsection (1) above has taken effect in relation to payments of interest on any loan, section 369 shall not again apply to payments of interest on that loan except where they become due after such

time as may be specified in a further notice given by the Board for the purposes of this subsection to the lender and the borrower.

(6) A notice under subsection (5) above shall not specify a time for the purposes of that subsection which falls before the time when the Schedule A business in question is permanently discontinued or, as the case may be, when the proposal to carry it on is finally abandoned."

19 (1) In Chapter I of Part X of that Act (loss relief for the purposes of income tax), before section 380, there shall be inserted the following section—

"Schedule A losses

379A Schedule A losses.

(1) Subject to the following provisions of this section, where for any year of assessment any person sustains any loss in a Schedule A business carried on by him either solely or in partnership—

(a) the loss shall be carried forward to the following year of assessment and, to the extent that it does not exceed them, set against any profits or gains of that business for the year to which it is carried forward; and

(b) where there are no profits or gains for the following year or the profits or gains for that year are exceeded by the amount of the loss, the loss or, as the case may be, the remainder of it shall be so carried forward to the next following year, and so on.

(2) Subsection (3) below shall apply where a loss is sustained in a Schedule A business for any year of assessment ("the year of the loss") and one or both of the following conditions is satisfied, that is to say—

(a) the amount of the relevant capital allowances treated as expenses of that business in computing that loss exceeds, by any amount ("the net capital allowances"), the amount of any charges under the 1990 Act which are treated as receipts of that business in computing that loss;

(b) the Schedule A business has been carried on in relation to land that consists of or includes an agricultural estate to which allowable agricultural expenses deducted in computing that loss are attributable;

and the relevant capital allowances for the purposes of this subsection are allowances under the 1990 Act other than the whole or, as the case may be, a proportionate part of any allowances made in accordance with section 32(1B) of this Act in respect of expenditure on the provision of machinery or plant which is let, for the whole or a part of the year in question, to a person who does not use it or uses it for purposes other than those of a trade.

(3) Where the person carrying on the Schedule A business in a case to which this subsection applies makes a claim, in relation to the year of the loss or the year following that year, for relief under this subsection in respect of the loss—

(a) relief from income tax may be given, for the year to which the claim relates, on an amount of that person's income for that year which

is equal to the amount of relief available for that year in respect of the loss; and

(b) the loss which is to be or has been carried forward under subsection (1) above shall be treated as reduced (if necessary to nil) by an amount equal to the amount on which relief is given;

but a claim for relief under this subsection shall not be made after the end of twelve months from the 31st January next following the end of the year to which it relates and shall be accompanied by all such amendments as may be required by virtue of paragraph (b) above of any self-assessment previously made by the claimant under section 9 of the Management Act.

(4) Subject to subsection (5) below, the reference in subsection (3) above to the amount of the relief available for any year in respect of a loss is a reference to whichever is the smallest of the following amounts, that is to say—

(a) the amount of the relievable income for the year to which the claim relates;

(b) the loss sustained in the Schedule A business in the year of the loss; and

(c) the amount which, according to whether one or both of the conditions mentioned in subsection (2) above is satisfied in relation to the year of the loss, is equal—

(i) to the net capital allowances,

(ii) to the amount of the allowable agricultural expenses for the year of the loss, or

(iii) to the sum of the net capital allowances and the amount of those expenses.

(5) Where relief under subsection (3) above is given in respect of a loss in relation to either of the years in relation to which relief may be claimed in respect of that loss, relief shall not be available in respect of the same loss for the other year except, in a case where the relief already given is of an amount determined in accordance with subsection (4)(a) above, to the extent that the smaller of the amounts applicable by virtue of subsection (4)(b) and (c) above exceeds the amount of relief already given.

(6) For the purposes of subsection (4)(a) above the amount of relievable income for any year, in relation to any person, shall be equal to the amount of his income for that year—

(a) after effect has been given to subsection (1) above in relation to any amount carried forward to that year in respect of a loss sustained in any year before the year of the loss, and

(b) in the case of a claim under subsection (3) above in relation to the year of the loss, after effect has been given to any claim under that subsection in respect of a loss sustained in the preceding year.

(7) For the purposes of this section the loss sustained in any Schedule A business shall be computed in like manner as the profits or gains arising or accruing from such a business are computed under the provisions of the Income Tax Acts applicable to Schedule A.

(8) In this section "allowable agricultural expenses", in relation to an agricultural estate, means any disbursements or expenses attributable to the estate which are deductible in respect of maintenance, repairs, insurance

or management of the estate and otherwise than in respect of the interest payable on any loan.

(9) For the purposes of this section the amount of any disbursements or expenses attributable to an agricultural estate shall be determined as if—

(a) disbursements and expenses were to be disregarded to the extent that they would not have been attributable to the estate if it did not include the parts of it used wholly for purposes other than purposes of husbandry, and

(b) disbursements and expenses in respect of parts of the estate used partly for purposes of husbandry and partly for other purposes were to be reduced to an extent corresponding to the extent to which those parts were used for other purposes.

(10) In this section—

"agricultural estate" means any land (including any houses or other buildings) which is managed as one estate and which consists of or includes any agricultural land; and

"agricultural land" means land, houses or other buildings in the United Kingdom occupied wholly or mainly for the purposes of husbandry."

(2) Where apart from this Act any person who carries on a Schedule A business in the year 1995-96 would have been entitled—

(a) by virtue of Part II of the Taxes Act 1988, to deduct any amount that became due before the beginning of that year from rent received in that year, being rent which is in fact brought into account in computing the profits or gains of that business, or

(b) by virtue of section 392 of that Act, to carry forward to that year the amount of any portion of a loss sustained in any transaction, being a transaction of such a nature that if it occurred in that year it would be treated as a transaction in the course of that Schedule A business,

that amount shall be treated for the purposes of income tax as if it were a loss falling, in accordance with section 379A(1) of that Act, to be carried forward from the previous year to the year 1995-96 and (in so far as not used in giving relief for that year) to subsequent years.

(3) Where—

(a) any person carrying on a Schedule A business in the year 1995-96 would, by virtue of section 355(4) of the Taxes Act 1988 (power to carry forward excess interest), have been entitled, in respect of an amount of interest representing an excess of interest over the income against which relief was available for any previous year, to be given relief against an equivalent amount of income for the year 1995-96 from the letting of any land, caravan or house-boat, and

(b) that business relates to any land, caravan or house-boat in relation to which the condition specified in section 355(1)(b) of that Act would have been fulfilled for the year 1995-96,

that amount shall be treated for the purposes of income tax as if it were a loss falling, in accordance with section 379A(1) of that Act, to be carried forward from the previous year to the year 1995-96 and (in so far as not used in giving relief for that year) to subsequent years.

(4) Section 379A(3) of that Act shall have effect for the purposes of the making of a claim in a case where the year to which the claim relates is the year 1995-96 as if the period for making such a claim ended two years after the end of that year.

20 In section 401 of that Act (relief for pre-trading expenditure), after subsection (1A) there shall be inserted the following subsection—

"(1B) Except for the purposes of corporation tax, subsection (1) above shall apply in relation to expenditure for the purposes of a Schedule A business as it applies in relation to expenditure for the purposes of a trade; and, accordingly, that subsection shall have effect in relation to expenditure for the purposes of a Schedule A business as if the reference to the computation of the profits or gains for the purposes of Case I or II of Schedule D were a reference to the computation of profits or gains for the purposes of Schedule A."

21 (1) Section 503 of that Act (letting of furnished holiday accommodation), except so far as it applies for the purposes of corporation tax, shall have effect with the following modifications.

(2) Subsection (1) shall have effect as if for "380 to 390, 393, 393A(1), 401" there were substituted "379A to 390" and as if the following paragraph were substituted for paragraph (a)—

"(a) any Schedule A business, so far as it consists in the commercial letting of furnished holiday accommodation in the United Kingdom, shall be treated as a trade the profits or gains of which are chargeable to tax under Case I of Schedule D; and".

(3) The following subsection shall be deemed to be substituted for subsection (2)—

"(2) In its application by virtue of subsection (1) above section 390 shall have effect as if the reference to the trade the profits of which are chargeable to tax under Case I or II of Schedule D were a reference to the Schedule A business so far as it is treated as a trade."

(4) Subsection (5) shall be deemed to be omitted.

22 In section 577(9) of that Act (exception in relation to business entertaining expenses for gifts to bodies established for charitable purposes), after "under" there shall be inserted "Schedule A or".

23 Section 579 of that Act (statutory redundancy payments), except so far as it applies for the purposes of corporation tax, shall have effect as if the following subsection were substituted for subsection (4)—

"(4) Where a redundancy payment or other employer's payment is made in respect of employment wholly in a Schedule A business carried on by the employer—

(a) the amount of the redundancy payment or the corresponding amount of the other employer's payment shall (if not otherwise so allowable) be allowable as a deduction in computing for the purposes of Schedule A the profits or gains or losses of the business; but

(b) if the employer's payment was made after the discontinuance of the business, the net amount so deductible shall be treated as if it were a payment made on the last day on which the business was carried on."

24 Section 588 of that Act (training courses for employees), except so far as it applies for the purposes of corporation tax, shall have effect as if the following subsection were inserted after subsection (4)—

"(4A) Subsection (3) above shall have effect where the employee is or was employed for the purposes of a Schedule A business carried on by the employer as if the references to computing for the purposes of Schedule D the profits or gains of a trade, profession or vocation mentioned in that subsection were references to computing for the purposes of Schedule A the profits or gains of that business."

25 Section 589A of that Act (counselling services for employees), except so far as it applies for the purposes of corporation tax, shall have effect as if the following subsection were inserted after subsection (9)—

"(9A) Subsection (8) above shall have effect where the employee is or was employed for the purposes of a Schedule A business carried on by the employer as if the references to computing for the purposes of Schedule D the profits or gains of the trade, profession or vocation mentioned in that subsection were references to computing for the purposes of Schedule A the profits or gains of that business."

26 In section 692(1) of that Act (reimbursement of settlor), for the words from "the profits" onwards there shall be substituted "either the profits of a trade carried on by the settlor or the profits of a Schedule A business so carried on".

27 In section 779(13)(a) of that Act (definition of relevant tax relief for the purposes of anti-avoidance provisions), the words "allowable by virtue of sections 25, 26 and 28 to 31 and Schedule 1" shall be omitted.

28 In section 832(1) of that Act (interpretation of the Tax Acts), after the definition of "recognised clearing system" there shall be inserted the following definition—

""Schedule A business" means any business the profits or gains of which are chargeable to income tax under Schedule A, including the business in the course of which any transaction is by virtue of paragraph 1(2) of that Schedule to be treated as entered into;".