

SCHEDULES.

SCHEDULE 10

Section 45.

CAPITAL GAINS: ADMINISTRATION.

PART I

CAPITAL GAINS TAX.

Application of income tax administrative provisions.

- 1 (1) Capital gains tax shall be under the care and management of the Board and the provisions of the Income Tax Acts in the Table below shall apply in relation to capital gains tax as they apply in relation to income tax chargeable under Schedule D at the standard rate and subject to any necessary modifications.
- (2) An appeal shall lie against an assessment to capital gains tax made in accordance with section 5 of the Income Tax Management Act 1964 as applied by sub-paragraph (1) above and the appeal shall, subject to section 44 of this Act, be to the General Commissioners or the Special Commissioners; and, subject to the said section 44, section 12 of the said Act of 1964 shall apply accordingly in relation to the appeal.
- (3) Section 9 of the Income Tax Management Act 1964 as applied by sub-paragraph (1) above shall apply to every claim under this Part of this Act.

TABLE

INCOME TAX PROVISIONS APPLIED TO CAPITAL GAINS TAX

The Income Tax Act 1952

Section 47 (time limit for assessments).
Section 63 (grounds of appeal to be stated, and recovery of tax not in dispute).
Sections 65 and 66 (relief against double assessment or error or mistake in return).
Chapter IV of Part II (collection) except section 72.
Part XV (representative assessments) except section 367.
Section 370 (assessment of agent and non-resident).
Sections 495 to 497 (interest on overdue tax).
Sections 500 to 505 (penalties).
Section 507 with the amendment in Schedule 4 to the Income Tax Management Act 1964 (time limit for claims).

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Sections 510, 513 to 515 and 520 (miscellaneous).

The Finance Act 1953

Section 29 (assessments in Scilly Isles).

The Finance Act 1956

Section 10(3) (question of ordinary residence).

The Finance Act 1960

Part III (penalties)

The Income Tax Management Act 1964

The whole Act

Regulations about appeals.

- 2 (1) The Board may make regulations—
- (a) as respects the conduct of appeals against assessments and decisions on claims under this Part of this Act,
 - (b) entitling persons, in addition to those who would be so entitled apart from the regulations, to appear on such appeals,
 - (c) regulating the time within which such appeals or claims may be brought or made,
 - (d) where the market value of an asset on a particular date, or an apportionment or any other matter, may affect the liability to capital gains tax of two or more persons, enabling any such person to have the matter determined by the tribunal having jurisdiction to determine that matter if arising on an appeal against an assessment, and prescribing a procedure by which the matter is not determined differently on different occasions,
 - (e) authorising an inspector or other officer of the Board, notwithstanding the obligation as to secrecy imposed by virtue of this or any other Act, to disclose to a person entitled to appear on such an appeal the market value of an asset as determined by an assessment or decision on a claim, or to disclose to a person whose liability to tax may be affected by the determination of the market value of an asset on a particular date, or an apportionment or any other matter, any decision on the matter made by an inspector or other officer of the Board.
- (2) Regulations under this paragraph may contain such supplemental and incidental provisions as appear to the Board to be expedient including in particular—
- (a) provisions as to the choice of the Commissioners, whether a body of General Commissioners or the Special Commissioners, to hear the appeal where, in addition to the appellant against an assessment, or the claimant in the case of an appeal against the decision on a claim, and in addition to the inspector or other officer of the Board, some other person is entitled to be a party to the appeal, and
 - (b) provisions corresponding to section 329 of the Income Tax Act 1952 (procedure on apportionments where more than one body of General Commissioners has jurisdiction), and
 - (c) provisions authorising the giving of conditional decisions where, under section 44 or any other provision of this Act, questions on an appeal against

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an assessment or a decision on a claim may go partly to one tribunal and partly to another.

- (3) Regulations under this paragraph—
- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons, and
 - (b) shall have effect notwithstanding anything in the provisions of the Income Tax Acts applied by this Schedule.

Married women.

- 3 (1) Subject to this paragraph, the amount of capital gains tax on chargeable gains accruing to a married woman in a year of assessment, or part of a year of assessment, during which she is a married woman living with her husband shall be assessed and charged on the husband and not otherwise but this sub-paragraph shall not affect the amount of capital gains tax chargeable on a man apart from this sub-paragraph nor result in the additional amount of capital gains tax charged on a man by virtue of this sub-paragraph being different from the amount which would otherwise have remained chargeable on the married woman.

- (2) Sub-paragraph (1) above shall not apply in relation to a husband and wife in any year of assessment if, before 6th July in the year next following that year of assessment, an application is made by either the husband or wife, and such an application duly made shall have effect not only as respects the year of assessment for which it is made but also for any subsequent year of assessment:

Provided that the applicant may give, for any subsequent year of assessment, a notice to withdraw that application and where such a notice is given the application shall not have effect with respect to the year for which the notice is given or any subsequent year.

A notice of withdrawal under this proviso shall not be valid unless it is given within the period for making, for the year for which the notice is given, an application similar to that to which the notice relates.

- (3) Returns under section 7 or section 9(6) of the Income Tax Management Act 1964 as respects chargeable gains accruing to a married woman may be required either from her or, if her husband is liable under sub-paragraph (1) above, from him.
- (4) Section 359 (collection from wife of tax assessed on husband attributable to her income) and section 360 (right of husband to disclaim liability for tax on deceased wife's income) of the Income Tax Act 1952 shall apply with any necessary modifications in relation to capital gains tax as they apply in relation to income tax other than surtax.
- (5) An application or notice of withdrawal under this paragraph shall be in such form and made in such manner as may be prescribed by the Board.

Postponement of payment of tax.

- 4 (1) Capital gains tax chargeable on gains accruing—
- (a) on the disposal of assets deemed to have been disposed of by a deceased person on his death, or

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(b) on the disposal of settled property deemed to be effected on any occasion in accordance with subsection (3) or subsection (4) of section 25 of this Act, being chargeable gains accruing—

- (i) on the disposal of land or an estate or interest in land, or
- (ii) on the disposal of shares or securities of a company the value of which at the time of the disposal is to be ascertained for the purposes of estate duty under section 55 of the Finance Act 1940 (valuation by reference to assets of the company) or the corresponding enactment forming part of the law of Northern Ireland, or would fall to be so ascertained if estate duty were leviable on the shares or securities on a death at the time of the disposal, or
- (iii) where the Board are satisfied that the capital gains tax chargeable on gains accruing on the disposal of any shares or securities of a company not falling within paragraph (ii) above, and not quoted on a recognised stock exchange in the United Kingdom or elsewhere, cannot be paid at once without undue hardship, on the disposal of those shares or securities,

may, at the option of the personal representatives or as the case may be of the trustees, be paid by eight equal yearly instalments or sixteen half-yearly instalments, but subject to the payment of interest under sections 495 to 497 of the Income Tax Act 1952 as applied by this Schedule.

- (2) The first instalment shall be due at the expiration of twelve months from the time of the disposal and the interest on the unpaid portion of the tax shall be added to each instalment and paid accordingly; but the tax for the time being unpaid, with interest to the date of payment, may be paid at any time and, if the property is disposed of for valuable consideration, shall become due and payable on the disposal.
- (3) If relief is given under section 24(2) or section 25(5) of this Act in respect of an aggregate sum which includes gains to which this paragraph applies and other gains, then for the purpose of ascertaining the amount of capital gains tax chargeable on the gains to which this paragraph applies, that relief shall be treated as having been applied rateably in respect of tax on those respective gains.

PART II

PROVISIONS FOR CAPITAL GAINS TAX AND CORPORATION TAX.

General.

- 5 This Part of this Schedule has effect in relation to capital gains tax, including capital gains tax chargeable under section 82 of this Act, and also in relation to corporation tax and in this Part of this Schedule " tax " shall be construed accordingly.

Information as to assets acquired.

- 6 (1) A notice under section 7 or section 9(6) of the Income Tax Management Act 1964 (return of total income and return of income for purposes of a claim) may require particulars of any assets acquired by the person on whom the notice was served (or if the notice relates to income or chargeable gains of some other person, of any assets acquired by that other person) in the period specified in the notice, being a period beginning not earlier than 6th April 1965 but excluding—

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- (a) any assets exempted by section 27 of this Act, without subsection (2) of that section, or
 - (b) unless the amount or value of the consideration for its acquisition exceeded one thousand pounds, any asset which is tangible moveable property and is not within the exceptions in section 30(6) of this Act, or
 - (c) any assets acquired as trading stock.
- (2) The particulars required under this paragraph may include particulars of the person from whom the asset was acquired, and of the consideration for the acquisition.

Special returns.

- 7
- (1) For the purpose of obtaining particulars of chargeable gains the inspector may by notice in writing require a return under any of the provisions of this paragraph.
 - (2) An issuing house or other person carrying on a business of effecting public issues of shares or securities in any company, or placing of shares or securities in any company, either on behalf of the company, or on behalf of holders of blocks of shares or securities which have not previously been the subject of a public issue or placing, may be required to make a return of all such public issues or placings effected by that person in the course of the business in the period specified in the notice requiring the return, giving particulars of, the persons to or with whom the shares or securities are issued, allotted or placed, and the number or amount of the shares or securities so obtained by them respectively.
 - (3) A person not carrying on such a business may be required to make a return as regards any such public issue or placing effected by that person and specified in the notice, giving particulars of the persons to or with whom the shares or securities are issued, allotted, or placed and the number or amount of the shares or securities so obtained by them respectively.
 - (4) A member of a stock exchange in the United Kingdom, other than a jobber, may be required to make a return giving particulars of any transactions effected by him in the course of his business in the period specified in the notice requiring the return giving particulars of the parties to the transactions and the number or amount of the shares or securities dealt with in the respective transactions and the amount or value of the consideration.
 - (5) The committee or other person or body of persons responsible for managing a clearing house for any terminal market in commodities may be required to make a return giving particulars of any transactions effected through the clearing house in the period specified in the notice requiring the return giving particulars of the parties to the transactions and of the amounts dealt with in those transactions respectively and the amount or value of the consideration.
 - (6) An auctioneer, and any person carrying on a trade of dealing in any description of tangible moveable property, or of acting as an agent or intermediary in dealings in any description of tangible moveable property, may be required to make a return giving particulars of any transactions effected by or through him in which any asset which is tangible moveable property is disposed of for a consideration the amount or value of which, in the hands of the recipient, exceeds one thousand pounds.
 - (7) No person shall be required under this paragraph to include in a return particulars of any transaction effected before 7th April 1965 or more than three years before the service of the notice requiring him to make the return.

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- (8) Part III of the Finance Act 1960 (penalties) shall have effect as if this paragraph were among the provisions specified in the second column of Schedule 6 to that Act.

Nominee shareholdings.

- 8 (1) Section 250(4) of the Income Tax Act 1952 (information from nominee shareholders) shall apply for the purposes of obtaining particulars of chargeable gains, but a notice under that subsection as so applied may be given by an inspector or other officer of the Board.
- (2) The said section 250(4) as applied by this paragraph shall have effect as if references to shares included references to securities and loan capital.

Returns of assets in settlements.

- 9 Section 410 of the Income Tax Act 1952 (power to obtain information for purposes connected with settlements) shall apply for the purposes of this Part of this Act as it applies for the purposes of Chapter III of Part XVIII of that Act.

Partnerships.

- 10 A return of income of a partnership under section 144 of the Income Tax Act 1952 shall include—
- (a) with respect to any disposal of partnership property during a period to which any part of the return relates the like particulars as if the partnership were liable to tax on any chargeable gain accruing on the disposal, and
 - (b) with respect to any acquisition of partnership property the particulars required under paragraph 6 of this Schedule.

Information as to non-resident companies and trusts.

- 11 (1) A person holding shares or securities in a company which is not resident or ordinarily resident in the United Kingdom, or who is interested in settled property under a settlement the trustees of which are not resident or ordinarily resident in the United Kingdom, may be required by a notice by the Board to give such particulars as the Board may consider are required to determine whether the company or trust falls within section 41 or section 42 of this Act, and whether any chargeable gains have accrued to that company, or to the trustees of that settlement, in respect of which the person to whom the notice is given is liable to capital gains tax under the said section 41 or the said section 42.
- (2) Part III of the Finance Act 1960 (penalties) shall have effect as if this paragraph were among the provisions specified in the second column of Schedule 6 to that Act.

Liability of trustees, etc.

- 12 (1) Capital gains tax chargeable in respect of chargeable gains accruing to the trustees of a settlement or capital gains tax due from the personal representatives of a deceased person may be assessed and charged on and in the name of any one or more of those trustees or personal representatives, but where an assessment is made in pursuance of this sub-paragraph otherwise than on all the trustees or all the personal

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representatives the persons assessed shall not include a person who is not resident or ordinarily resident in the United Kingdom.

- (2) Subject to section 22(5) of this Act, chargeable gains accruing to the trustees of a settlement or to the personal representatives of a deceased person, and capital gains tax chargeable on or in the name of such trustees or personal representatives, shall not be regarded for the purposes of this Part of this Act as accruing to, or chargeable on, any other person, nor shall any trustee or personal representative be regarded for the purposes of this Part of this Act as an individual, but the provisions of Part XV of the Income Tax Act 1952 as applied by this Schedule shall not affect the question of who is the person to whom chargeable gains accrue, or who is chargeable to capital gains tax, so far as that question is relevant for the purposes of any exemption or of any provision determining the rate at which capital gains tax is chargeable.
- (3) Chargeable gains which accrue to an individual on the disposal of assets deemed to be made by him on his death shall be regarded for the purposes of this Part of this Act as accruing to an individual notwithstanding that capital gains tax in respect of the gains is chargeable and assessable on his personal representatives.

Conclusiveness of income tax decisions.

- 13 Any assessment to income tax or decision on a claim under the Income Tax Acts, and any decision on an appeal under the Income Tax Acts against such an assessment or decision, shall be conclusive so far as under section 21 of this Act or Schedule 6 to this Act or any other provision of this Part of this Act liability to tax depends on the provisions of the Income Tax Acts.

Valuation.

- 14 (1) If for the purposes of this Part of this Act the Board authorise an inspector or other officer of the Board to inspect any property for the purpose of ascertaining its market value the person having the custody or possession of that property shall permit the inspector or other officer so authorised to inspect it at such reasonable times as the Board may consider necessary.
- (2) If any person wilfully delays or obstructs an inspector or other officer of the Board acting in pursuance of this paragraph he shall be liable on summary conviction to a fine not exceeding five pounds.

Priority of tax in bankruptcy.

- 15 (1) In a bankruptcy under the law of any part of the United Kingdom capital gains tax and corporation tax shall each have the same priority as income tax.
- (2) In the application of this Part of this Act to Northern Ireland the reference in this paragraph to priority in bankruptcy includes a reference to any other priority given to income tax under the Bankruptcy Acts (Northern Ireland) 1857 to 1964.

Form of declaration of Commissioners and others.

- 16 In the form of declaration in Part I of Schedule 1 to the Income Tax Management Act 1964 for the words " the profits tax " (in both places) there shall be substituted the words " any tax on company profits or capital gains " , but not so as to invalidate any declaration made before the passing of this Act.

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Forms of assessments and returns and other documents.

- 17 Any return or assessment or other document relating to chargeable gains or tax on capital gains may be combined with one relating to income or income tax.

Northern Ireland.

- 18 Any reference in this Part of this Act to the General Commissioners shall in its application to Northern Ireland be a reference to the Special Commissioners.