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SCHEDULES.

SCHEDULE 10

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.