

SCHEDULES.

SCHEDULE 6

Section 22.

CAPITAL GAINS: COMPUTATION.

PART I

General.

- 1 The provisions of this Schedule shall have effect for computing for the purposes of this Part of this Act the amount of a gain accruing on the disposal of an asset.

Exclusion from consideration for disposals of sums chargeable to income tax or corporation tax.

- 2 (1) There shall be excluded from the consideration for a disposal of assets taken into account in the computation under this Schedule of the gain accruing on that disposal any money or money's worth charged to income tax as income of, or taken, into account as a receipt in computing income or profits or gains or losses of, the person making the disposal for the purposes of the Income Tax Acts.
- (2) The foregoing sub-paragraph shall not be taken as excluding from the consideration so taken into account any money or money's worth which is taken into account in the making of a balancing charge under Part X or Part XI of the Income Tax Act 1952 (Capital allowances).
- (3) This paragraph shall not preclude the taking into account in a computation under this Schedule, as consideration for the disposal of an asset, of the capitalised value of a rentcharge (as in a case where a rentcharge is exchanged for some other asset) or of the capitalised value of a ground annual or feu duty, or of a right of any other description to income or to payments in the nature of income over a period, or to a series of payments in the nature of income.

Exclusion of short-term gains.

- 3 (1) Without prejudice to the generality of paragraph 2(1) of this Schedule, and subject to the following provisions of this paragraph, a gain accruing on a disposal of an asset which is a disposal chargeable under Case VII of Schedule D shall not be a chargeable gain for the purposes of this Part of this Act.
- (2) A gain accruing on the disposal by way of gift of an asset shall not be a chargeable gain for the purposes of this Part of this Act—
- (a) if by virtue of paragraph 3(1) or 3(2) of Schedule 9 to the Finance Act 1962 (or those sub-paragraphs as extended by paragraph 4(1) of that Schedule) the donee is treated as if the donor's acquisition of the asset had been his acquisition of it, and

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- (b) the donee disposes of the asset in circumstances such that that disposal is chargeable under Case VII.
- (3) A gain accruing to the trustee on the disposal of an asset forming part of settled property deemed to be effected by him under section 25(3) of this Act when a person becomes absolutely entitled to it as against the trustee shall not be a chargeable gain for the purposes of this Part of this Act—
 - (a) if by virtue of paragraph 4(2) of the said Schedule 9 that person is treated as if the acquisition of the asset by the trustee had been his acquisition of it, and
 - (b) if that person disposes of the asset in circumstances such that the disposal is chargeable under Case VII.
- (4) A gain accruing on a disposal to which paragraph 5(1) of the said Schedule 9 (sale at an undervalue) applies shall not be a chargeable gain for the purposes of this Part of this Act if the person acquiring assets on the disposal disposes of those assets in circumstances such that the disposal is chargeable under Case VII.
- (5) The amount or value of the consideration for the acquisition of an asset by the person acquiring it on a disposal chargeable under Case VII shall not under any provision of this Part of this Act be deemed to be an amount greater than the amount taken into account as consideration on that disposal for the purposes of Case VII.
- (6) Neither paragraph 2 of this Schedule nor sub-paragraph (1) above shall apply in relation to a disposal which is chargeable under Case VII in consequence of the provisions of section 14 of the Finance Act 1962 (disposals of land effected indirectly) if, under the said section 14(2)(b), the amount on which the said person is chargeable to tax is reduced, but the amount of the gain accruing on the disposal for the purposes of this Part of this Act shall not exceed the amount of the reduction.

 This sub-paragraph shall be applied before any provision of this Part of this Act which makes part of a gain a chargeable gain, and part not.
- (7) Any apportionment of consideration or expenditure falling to be made in relation to a disposal chargeable under Case VII in accordance with section 13(3) of the Finance Act 1962, and in particular in a case where section 13(5) of that Act (enhancement of value of land by acquisition of adjoining land) applies, shall be followed for the purposes of this Part of this Act both in relation to a disposal of the assets acquired on the disposal chargeable under Case VII and, where the disposal chargeable under Case VII is a part disposal, in relation to a disposal of what remains undisposed of.
- (8) In this paragraph references to a disposal chargeable under Case VII are references to cases where the acquisition and disposal is in circumstances such that the gain accruing on it is chargeable under Case VII of Schedule D, or where it would be so chargeable if there were a gain so accruing.

Expenditure: general provisions.

- 4 (1) Subject to the following provisions of this Schedule, the sums allowable as a deduction from the consideration in the computation under this Schedule of the gain accruing to a person on the disposal of an asset shall be restricted to—
 - (a) the amount or value of the consideration, in money or money's worth, given by him or on his behalf wholly and exclusively for the acquisition of the asset, together with the incidental costs to him of the acquisition or, if the

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- asset was not acquired by him, any expenditure wholly and exclusively incurred by him in providing the asset,
- (b) the amount of any expenditure wholly and exclusively incurred on the asset by him or on his behalf for the purpose of enhancing the value of the asset, being expenditure reflected in the state or nature of the asset at the time of the disposal, and any expenditure wholly and exclusively incurred by him in establishing, preserving or defending his title to, or to a right over, the asset,
 - (c) the incidental costs to him of making the disposal.
- (2) For the purposes of this paragraph and for the purposes of all other provisions of this Part of this Act the incidental costs to the person making the disposal of the acquisition of the asset or of its disposal shall consist of expenditure wholly and exclusively incurred by him for the purposes of the acquisition or, as the case may be, the disposal, being fees, commission or remuneration paid for the professional services of any surveyor or valuer, or auctioneer, or accountant, or agent or legal adviser and costs of transfer or conveyance (including stamp duty) together—
- (a) in the case of the acquisition of an asset, with costs of advertising to find a seller, and
 - (b) in the case of a disposal, with costs of advertising to find a buyer and costs reasonably incurred in making any valuation or apportionment required for the purposes of the computation under this Schedule, including in particular expenses reasonably incurred in ascertaining market value where required by this Part of this Act.

Exclusion of expenditure by reference to income tax.

- 5 (1) There shall be excluded from the sums allowable under the last foregoing paragraph as a deduction in the computation under this Schedule any expenditure allowable as a deduction in computing the profits or gains or losses of a trade, profession or vocation for the purposes of income tax or allowable as a deduction in computing any other income or profits or gains or losses for the purposes of the Income Tax Acts and any expenditure which, although not so allowable as a deduction in computing any losses, would be so allowable but for an insufficiency of income or profits or gains ; and this sub-paragraph applies irrespective of whether effect is or would be given to the deduction in computing the amount of tax chargeable or by discharge of repayment of tax or in any other way.
- (2) Without prejudice to the provisions of sub-paragraph (1) above there shall be excluded from the sums allowable under the last foregoing paragraph as a deduction in the computation under this Schedule any expenditure which, if the assets, or all the assets to which the computation relates, were, and had at all times been, held or used as part of the fixed capital of a trade the profits or gains of which were (irrespective of whether the person making the disposal is a company or not) chargeable to income tax would be allowable as a deduction in computing the profits or gains or losses of the trade for the purposes of income tax.

Restriction of losses by reference to capital allowances and renewals allowances.

- 6 (1) The last foregoing paragraph shall not require the exclusion from the sums allowable as a deduction in the computation under this Schedule of any expenditure as being expenditure in respect of which a capital allowance or renewals allowance is made, but the amount of any losses accruing on the disposal of an asset shall be restricted by reference to capital allowances and renewals allowances as follows.

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- (2) In the computation under this Schedule of the amount of a loss accruing to the person making the disposal, there shall be excluded from the sums allowable as a deduction any expenditure to the extent to which any capital allowance or renewals allowance has been or may be made in respect of it.
- (3) If the person making the disposal acquired the asset—
- (a) by a transfer by way of sale in relation to which an election under paragraph 4 of Schedule 14 to the Income Tax Act 1952 was made, or
 - (b) by a transfer to which paragraph 6 or paragraph 7 of Schedule 6 to the Finance Act 1952 applies,
- (being enactments under which a transfer is treated for the purposes of capital allowances as being made at written down value), the foregoing provisions of this paragraph shall apply as if any capital allowance made to the transferor in respect of the asset had (except so far as any loss to the transferor was restricted under those provisions) been made to the person making the disposal (that is the transferee); and where the transferor acquired the asset by such a transfer, capital allowances which by virtue of this sub-paragraph can be taken into account in relation to the transferor shall also be taken into account in relation to the transferee (that is the person making the disposal), and so on for any series of transfers before the disposal.
- (4) In this paragraph " capital allowance " means—
- (a) any allowance under Part X or Part XI of the Income Tax Act 1952, other than an investment allowance or an allowance under section 313 of that Act (relief for cost of maintenance of agricultural land),
 - (b) any relief given under paragraph 16 of Schedule 4 to the Finance Act 1963 (expenditure on sea walls), and
 - (c) any deduction in computing profits or gains allowable under section 22 of the Finance Act 1954 (cemeteries).
- (5) In this paragraph " renewals allowance " means a deduction allowable in computing the profits or gains of a trade, profession or vocation for the purpose of income tax by reference to the cost of acquiring an asset for the purposes of the trade, profession or vocation in replacement of another asset, and for the purposes of this Schedule a renewals allowance shall be regarded as a deduction allowable in respect of the expenditure incurred on the asset which is being replaced.
- (6) The amount of capital allowances to be taken into account under this paragraph in relation to a disposal include any allowances falling to be made by reference to the event which is the disposal, and there shall be deducted from the amount of the allowances the amount of any balancing charge to which effect has been or is to be given by reference to the event which is the disposal, or any earlier event, and of any balancing charge to which effect might have been so given but for the making of an election under section 296 of the Income Tax Act 1952 (option in case of replacement of machinery or plant).

Part disposals.

- 7 (1) Where a person disposes of an interest or right in or over an asset and, generally wherever on the disposal of an asset any description of property derived from that asset remains undisposed of, the sums which under paragraphs (a) and (b) of paragraph 4(1) of this Schedule are attributable to the asset shall, both for the purposes of the computation under this Schedule of the gain accruing on the disposal

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and for the purpose of applying this Schedule in relation to the property which remains undisposed of, be apportioned.

- (2) The apportionment shall be made by reference—
- (a) to the amount or value of the consideration for the disposal on the one hand (call that amount or value A), and
 - (b) to the market value of the property which remains undisposed of on the other hand (call that market value B),

and accordingly the fraction of the said sums allowable as a deduction in computing under this Schedule the amount of the gain accruing on the disposal shall be

$$\frac{\mathbf{A}}{\mathbf{A} + \mathbf{B}}$$

, and the remainder shall be attributed to the property which remains undisposed of.

- (3) Any apportionment to be made in pursuance of this paragraph shall be made before operating the provisions of the last foregoing paragraph, and if, after a part disposal, there is a subsequent disposal of an asset the capital allowances or renewals allowances to be taken into account in pursuance of that paragraph in relation to the subsequent disposal shall, subject to the next following sub-paragraph, be those referable to the sums which under paragraphs (a) and (b) of paragraph 4(1) of this Schedule are attributable to the asset whether before or after the part disposal, but those allowances shall be reduced by the amount (if any) by which the loss on the earlier disposal was restricted under the provisions of that paragraph.
- (4) This paragraph shall not be taken as requiring the apportionment of any expenditure which, on the facts, is wholly attributable to what is disposed of, or wholly attributable to what remains undisposed of.

Assets derived from other assets.

- 8 If and so far as, in a case where assets have been merged or divided or have changed their nature or rights or interests in or over assets have been created or extinguished, the value of an asset is derived from, any other asset in the same ownership, an appropriate proportion of the sums allowable as a deduction in a computation under this Schedule in respect of the other asset under paragraphs (a) and (b) of paragraph 4(1) of this Schedule shall, both for the purpose of the computation of a gain accruing on the disposal of the first-mentioned asset and, if the other asset remains in existence, on a disposal of that other asset, be attributed to the first-mentioned asset.

Wasting assets.

- 9 (1) In this Schedule "wasting asset" means an asset with a predictable life not exceeding fifty years but so that—
- (a) freehold land shall not be a wasting asset whatever its nature, and whatever the nature of the buildings or works on it,
 - (b) animals shall not be regarded as wasting assets so long as they are immature,
 - (c) "life", in relation to any tangible moveable property, means useful life, having regard to the purpose for which the tangible assets were acquired or provided by the person making the disposal,
 - (d) plant and machinery shall in every case be regarded as having a predictable life of less than fifty years, and in estimating that life it shall be assumed that

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its life will end when it is finally put out of use as being unfit for further use, and that it is going to be used in the normal manner and to the normal extent and is going to be so used throughout its life as so estimated,

- (e) a life interest in settled property shall not be a wasting asset until the predictable expectation of life of the life tenant is fifty years or less, and the predictable life of life interests in settled property and of annuities shall be ascertained from actuarial tables approved by the Board.

- (2) In this Schedule " the residual or scrap value ", in relation to a wasting asset, means the predictable value, if any, which the wasting asset will have at the end of its predictable life as estimated in accordance with this paragraph.
- (3) The question what is the predictable life of an asset, and the question what is its predictable residual or scrap value at the end of that life, if any, shall, so far as those questions are not immediately answered by the nature of the asset, be taken, in relation to any disposal of the asset, as they were known or ascertainable at the time when the asset was acquired or provided by the person making the disposal.

Wasting assets: straightline restriction of allowable expenditure.

- 10 (1) In the computation under this Schedule of the gain accruing on the disposal of a wasting asset it shall be assumed—
- (a) that any expenditure attributable to the asset under paragraph 4(1)(a) of this Schedule after deducting the residual or scrap value, if any, of the asset, is written off at a uniform rate from its full amount at the time when the asset is acquired or provided to nothing at the end of its life, and
- (b) that any expenditure attributable to the asset under paragraph 4(1)(b) of this Schedule is written off from the full amount of that expenditure at the time when that expenditure is first reflected in the state or nature of the asset to nothing at the end of its life,

so that an equal daily amount is written off day by day.

- (2) Thus, calling the predictable life of a wasting asset at the time when it was acquired or provided by the person making the disposal L, the period from that time to the time of disposal T(1), and, in relation to any expenditure attributable to the asset under paragraph 4(1)(b) of this Schedule, the period from the time when that expenditure is first reflected in the state or nature of the asset to the said time of disposal T(2), there shall be excluded from the computation under this Schedule—

- (a) out of the expenditure attributable to the asset under paragraph 4(1)(a) of this Schedule a fraction

$$\frac{T(1)}{L}$$

of an amount equal to the amount of that expenditure minus the residual or scrap value, if any, of the asset, and

- (b) out of the expenditure attributable to the asset under paragraph 4(1)(b) of this Schedule a fraction

$$\frac{T(2)}{L - (T(1) - T(2))}$$

of the amount of the expenditure.

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- (3) If any expenditure attributable to the asset under paragraph 4(1)(b) of this Schedule creates or increases a residual or scrap value of the asset, the provisions of subparagraph (1)(a) above shall be applied so as to take that into account.

Wasting assets qualifying for capital allowances.

- 11 (1) The last foregoing paragraph shall not apply in relation to a disposal of an asset—
- (a) which, from the beginning of the period of ownership of the person making the disposal to the time when the disposal is made, is used and used solely for the purposes of a trade, profession or vocation and in respect of which that person has claimed or could have claimed any capital allowance in respect of any expenditure attributable to the asset under paragraph (a) or paragraph (b) of paragraph 4(1) of this Schedule, or
 - (b) on which the person making the disposal has incurred any expenditure which has otherwise qualified in full for any capital allowance.
- (2) In the case of the disposal of an asset which, in the period of ownership of the person making the disposal, has been used partly for the purposes of a trade, profession or vocation and partly for other purposes, or has been used for the purposes of a trade, profession or vocation for part of that period, or which has otherwise qualified in part only for capital allowances.—
- (a) the consideration for the disposal, and any expenditure attributable to the asset by paragraph (a) or paragraph (b) of paragraph 4(1) of this Schedule shall be apportioned by reference to the extent to which that expenditure qualified for capital allowances, and
 - (b) the computation under this Schedule shall be made separately in relation to the apportioned parts of the expenditure and consideration, and
 - (c) paragraph 10 of this Schedule shall not apply for the purposes of the computation in relation to the part of the consideration apportioned to use for the purposes of the trade, profession or vocation, or to the expenditure qualifying for capital allowances, and
 - (d) if an apportionment of the consideration for the disposal has been made for the purposes of making any capital allowance to the person making the disposal or for the purpose of making any balancing charge on him, that apportionment shall be employed for the purposes of this paragraph, and
 - (e) subject to paragraph (d) above, the consideration for the disposal shall be apportioned for the purposes of this paragraph in the same proportions as the expenditure attributable to the asset is apportioned under paragraph (a) above.

Premiums under policies of insurance.

- 12 Without prejudice to the provisions of paragraph 5 of this Schedule, there shall be excluded from the sums allowable as a deduction in the computation under this Schedule of the gain accruing to a person on the disposal of an asset any premiums or other payments made under a policy of insurance of the risk of any kind of damage or injury to, or loss or depreciation of, the asset.

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Compensation and insurance money.

- 13 (1) If the recipient so claims, receipt of a capital sum within paragraph (a), (b), (c) or (d) of section 22(3) of this Act derived from an asset which is not lost or destroyed shall not be treated for the purposes of this Part of this Act as a disposal of the asset if—
- (a) the capital sum is wholly applied in restoring the asset, or
 - (b) the capital sum is applied in restoring the asset except for a part of the capital sum which is not reasonably required for the purpose and which is small as compared with the whole capital sum, or
 - (c) the amount of the capital sum is small, as compared with the value of the asset,
- but, if the receipt is not treated as a disposal, all sums which would, if the receipt had been so treated, have been brought into account as consideration for that disposal in the computation under this Schedule of a gain accruing on the disposal shall be deducted from any expenditure allowable under this Schedule as a deduction in computing a gain on the subsequent disposal of the asset.
- (2) If, in a case not falling within sub-paragraph (1)(b) above, a part of a capital sum within paragraph (a) or paragraph (b) of section 22(3) of this Act derived from an asset which is not lost or destroyed is applied in restoring the asset, then if the recipient so claims, that part of the capital sum shall not be treated as consideration for the disposal deemed to be effected on receipt of the capital sum but shall be deducted from any expenditure allowable under this Schedule as a deduction in computing a gain on the subsequent disposal of the asset.
- (3) If an asset is lost or destroyed and a capital sum received by way of compensation for the loss or destruction, or under a policy of insurance of the risk of the loss or destruction, is within one year of receipt, or such longer period as the inspector may allow, applied in acquiring an asset in replacement of the asset lost or destroyed the owner shall if he so claims be treated for the purposes of this Part of this Act—
- (a) as if the consideration for the disposal of the old asset were (if otherwise of a greater amount) of such amount as would secure that on the disposal neither a loss nor a gain accrues to him, and
 - (b) as if the amount of the consideration for the acquisition of the new asset were reduced by the excess of the amount of the capital sum received by way of compensation or under the policy of insurance, together with any residual or scrap value, over the amount of the consideration which he is treated as receiving under paragraph (a) above.
- (4) A claim shall not be made under sub-paragraph (3) above if part only of the capital sum is applied in acquiring the new asset but if all of that capital sum except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the old asset is so applied, then the owner shall if he so claims be treated for the purposes of this Part of this Act—
- (a) as if the amount of the gain so accruing were reduced to the amount of the said part (and, if not all chargeable gain, with a proportionate reduction in the amount of the chargeable gain), and
 - (b) as if the amount of the consideration for the acquisition of the new asset were reduced by the amount by which the gain is reduced under paragraph (a) of this sub-paragraph.
- (5) This paragraph shall not apply in relation to a wasting asset.

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Consideration due after time of disposal.

- 14 (1) If the consideration, or part of the consideration, taken into account in the computation under this Schedule is payable by instalments over a period beginning not earlier than the time when the disposal is made, being a period exceeding eighteen months, the chargeable gain (or allowable loss) accruing on the disposal shall be regarded for all the purposes of this Part of this Act as accruing in proportionate parts in the year of assessment in which the disposal is made and in each of the subsequent years of assessment down to and including the year of assessment in which the last instalment is payable.
- (2) The proportionate parts to be regarded as accruing in the respective years of assessment shall correspond to the proportions of the amounts of the instalments of consideration payable in those respective years of assessment.
- (3) The time in the year or accounting period when any such part of a chargeable gain or allowable loss is deemed to accrue under this paragraph shall be the last day in that year of assessment.
- (4) Sub-paragraph (1) above shall not apply to any part of the consideration which has effectively passed to the person making the disposal by way of a loan made to that person by the other party to the transaction.
- (5) In the computation under this Schedule consideration for the disposal shall be brought into account without any discount for postponement of the right to receive any part of it and, in the first instance, without regard to a risk of any part of the consideration being irrecoverable or to the right to receive any part of the consideration being contingent; and if any part of the consideration so brought into account is subsequently shown to the satisfaction of the inspector to be irrecoverable, such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.
- (6) This paragraph shall not be taken as applying this Part of this Act in relation to any disposal of an asset on or before 6th April 1965 so as to make a gain accruing on that disposal a chargeable gain.

Contingent liabilities.

- 15 (1) In the first instance no allowance shall be made in the computation under this Schedule—
- (a) in the case of a disposal by way of assigning a lease of land or other property, for any liability remaining with, or assumed by, the person making the disposal by way of assigning the lease which is contingent on a default in respect of liabilities thereby or subsequently assumed by the assignee under the terms and conditions of the lease,
- (b) for any contingent liability of the person making the disposal in respect of any covenant for quiet enjoyment or other obligation assumed as vendor of land, or of any estate or interest in land, or as a lessor,
- (c) for any contingent liability in respect of a warranty or representation made on a disposal by way of sale or lease of any property other than land.
- (2) If it is subsequently shown to the satisfaction of the inspector that any such contingent liability has become enforceable, and is being or has been enforced such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.

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Expenses of sale and transfer in administration of estates and trusts.

- 16 (1) In computing under this Schedule the gain accruing on a disposal of assets deemed to be made by an individual on his death, any expenditure within paragraph 4(2) of this Schedule incurred in relation to the actual disposition by the personal representatives of those assets, whether by way of sale or by way of disposition to legatees, shall, if the personal representatives so claim, be allowable as a deduction in the computation.
- (2) In the case of a gain accruing to a person on the disposal of, or of a right or interest in or over, an asset to which he became absolutely entitled as legatee or as against the trustees of settled property—
- (a) any "expenditure within paragraph 4(2) of this Schedule incurred by him in relation to the transfer of the asset to him by the personal representatives or trustees, and
 - (b) except so far as taken into account under sub-paragraph (1) above, any such expenditure incurred in relation to the transfer of the asset by the personal representatives or trustees,
- shall be allowable as a deduction in the computation under this Schedule of the gain accruing to that person on the disposal.

Expenditure reimbursed out of public money.

- 17 There shall be excluded from the computation under this Schedule any expenditure which has been or is to be met directly or indirectly by the Crown or by any Government, public or local authority whether in the United Kingdom or elsewhere.

Surtax in respect of shortfall in distributions of close company etc.

- 18 (1) If in pursuance of section 249 of the Income Tax Act 1952 (under which, as extended by section 78(7) of this Act, individuals may be assessed to surtax in respect of sums apportioned under Chapter III of Part IX of the Income Tax Act 1952 or under Part IV of this Act) a person is assessed to surtax then in the computation under this Schedule of the gain accruing on a disposal by him of any shares forming part of his interest in the company to which the relevant apportionment relates the amount of the surtax paid by him, so far as attributable to those shares, shall be allowable as a deduction.
- (2) The foregoing paragraph shall not apply in relation to surtax charged in respect of undistributed income which has, before the disposal, been subsequently distributed and is then exempt from surtax by virtue of subsection (5) of the said section 249.
- (3) For the purposes of this paragraph the income assessed to surtax shall be the highest part of the individual's income for the year of assessment in question, but so that if the highest part of the said income is taken into account under this paragraph in relation to an assessment to surtax the next highest part shall be taken into account in relation to any other relevant assessment, and so on.
- (4) For the purpose of identifying shares forming part of an interest in a company with shares subsequently disposed of which are of the same class, and in the same company, shares bought at an earlier time shall be deemed to have been disposed of before shares bought at a later time.
- (5) The provisions of this paragraph shall be construed as if this paragraph formed part of the said section 249.

Woodlands.

- 19 (1) (a) Consideration for the disposal of trees standing or felled or cut on land assessed to income tax or corporation tax under Schedule B, and
(b) notwithstanding the provisions of section 22(3) of this Act, capital sums received under a policy of insurance in respect of the destruction of or damage or injury to trees by fire or other hazard on such land,

shall be excluded from the computation under this Schedule of the gain accruing on the disposal if the person making the disposal is the person assessed to the tax under Schedule B.

- (2) In the computation under this Schedule so much of the cost of woodland in the United Kingdom shall be disregarded as is attributable to trees growing on the land.
(3) In the computation under this Schedule of the gain accruing on a disposal of woodland in the United Kingdom so much of the consideration for the disposal as is attributable to trees growing on the land shall be excluded.
(4) References in this paragraph to trees include references to saleable underwood.

Foreign tax.

- 20 Subject to the provisions of this Part of this Act as regards double taxation relief the tax chargeable under the law of any country outside the United Kingdom on the disposal of an asset which is borne by the person making the disposal shall be allowable as a deduction in the computation under this Schedule.

Supplemental.

- 21 (1) No deduction shall be allowable in a computation under this Schedule more than once from any sum or from more than one sum.
(2) References in this Schedule to sums taken into account as receipts or as expenditure in computing profits or gains or losses for the purposes of income tax shall include references to sums which would be so taken into account but for the fact that any profits or gains of a trade, profession, employment or vocation are not chargeable to income tax or that losses are not allowable for those purposes.
(3) In this Part of this Schedule references to income or profits charged or chargeable to tax include references to income or profits taxed or as the case may be taxable by deduction at source.
(4) For the purposes of any computation under this Schedule any necessary apportionments shall be made of any consideration or of any expenditure and the method of apportionment adopted shall, subject to the express provisions of this Schedule, be such method as appears to the inspector or on appeal the Commissioners concerned to be just and reasonable.
(5) In this Schedule " capital allowance " and " renewals allowance " have the meanings given by sub-paragraphs (4) and (5) of paragraph 6 of this Schedule.

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PART II

ASSETS HELD ON 6TH APRIL 1965.

Quoted securities.

- 22 (1) This paragraph applies—
- (a) to shares and securities which on 6th April 1965 have quoted market values on a recognised stock exchange in the United Kingdom or elsewhere, or which have had such quoted market values at any time in the period of six years ending on 6th April 1965, and
 - (b) to rights of unit holders in any unit trust scheme (as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940) the prices of which are published daily by the managers of the scheme.
- (2) For the purposes of this Part of this Act, including Part I of this Schedule, it shall be assumed, wherever relevant, that any assets to which this paragraph applies were sold by the owner, and immediately re-acquired by him, at their market value on 6th April 1965.
- (3) For the purpose of ascertaining the market value of any shares or securities in accordance with sub-paragraph (2) above—
- (a) section 44(3)(a) of this Act shall have effect as if for the words " one-quarter " there were substituted the words " one-half " , and as between the amount under paragraph (a) and the amount under paragraph (b) of the said section 44(3) the higher, and not the lower, amount shall be chosen ;
 - (b) section 44(4) of this Act shall have effect as if for the reference to an amount equal to the buying price there were substituted a reference to an amount half-way between the buying and selling prices ;
 - (c) where the market value of any shares or securities not within the said section 44(3) falls to be ascertained by reference to a pair of prices quoted on a stock exchange, an adjustment shall be made so as to increase the market value by an amount corresponding to that by which any market value is increased under paragraph (a) above.
- (4) Sub-paragraph (2) above shall not apply in relation to a disposal of assets—
- (a) if on the assumption in that sub-paragraph a gain would accrue on that disposal to the person making the disposal and either a smaller gain or a loss would so accrue (computed in accordance with the provisions of Part I of this Schedule) if the said sub-paragraph (2) did not apply, or
 - (b) if on the assumption in the said sub-paragraph (2) a loss would so accrue and either a smaller loss or a gain would accrue if the said sub-paragraph (2) did not apply,
- and accordingly the amount of the gain or loss accruing on the disposal shall be computed without regard to the provisions of this Part of this Schedule except that in a case where this sub-paragraph would otherwise substitute a loss for a gain or a gain for a loss it shall be assumed, in relation to the disposal, that the relevant assets were sold by the owner, and immediately re-acquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.
- (5) This paragraph shall not apply in relation to a disposal of shares or securities of a company by a person to whom those shares were issued as an employee either of

the company or of some other person on terms which restrict his rights to dispose of them.

- (6) For the purpose of—
- (a) identifying shares or securities held on 6th April 1965 with shares previously acquired, and
 - (b) identifying the shares or securities held on that date with shares or securities subsequently disposed of, and distinguishing them from shares or securities acquired subsequently,

so far as that identification is needed for the purposes of sub-paragraph (4) above, and so far as the shares or securities are of the same class, shares or securities acquired at an earlier time shall be deemed to be disposed of before shares or securities acquired at a later time.

Sales of land in United Kingdom reflecting development value.

- 23 (1) This paragraph shall apply in relation to a disposal of an asset which is land in the United Kingdom, or an estate or interest in land in the United Kingdom—
- (a) if, but for this paragraph, the expenditure allowable as a deduction in computing under this Schedule the gain accruing on the disposal would include any expenditure incurred before 6th April 1965, and
 - (b) if the consideration for the asset acquired on the disposal exceeds what its market value would be if, immediately before the disposal, it had become unlawful to carry out any development in, on or over the land other than development of the kinds specified in Schedule 3 to the Town and Country Planning Act 1962 (for land in England and Wales or Northern Ireland) or Schedule 3 to the Town and Country Planning (Scotland) Act 1947 (for land in Scotland).

In this sub-paragraph " development " has, in relation to land in England or Wales or Northern Ireland, the meaning given by the Town and Country Planning Act 1962 and, in relation to land in Scotland, the meaning given by the Town and Country Planning (Scotland) Act 1947.

- (2) For the purposes of this Part of this Act, including Part I of this Schedule, it shall be assumed in relation to the disposal and, if it is a part disposal, in relation to any subsequent disposal of the asset which is land in the United Kingdom or an estate or interest in land in the United Kingdom that that asset was sold by the person making the disposal, and immediately re-acquired by him, at its market value on 6th April 1965.
- (3) Sub-paragraph (2) above shall apply also in relation to any prior part disposal of the asset and, if tax has been charged, or relief allowed, by reference to that part disposal on a different footing, all such adjustments shall be made, whether by way of assessment or discharge or repayment of tax as are required to give effect to the provisions of this sub-paragraph.
- (4) Sub-paragraph (2) above shall not apply in relation to a disposal of assets—
- (a) if on the assumption in that sub-paragraph a gain would accrue on that disposal to the person making the disposal and either a smaller gain or a loss would so accrue (computed in accordance with the provisions of Part I of this Schedule) if the said sub-paragraph (2) did not apply, or

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- (b) if on the assumption in the said sub-paragraph (2) a loss would so accrue and either a smaller loss or a gain would accrue if the said sub-paragraph (2) did not apply,

and accordingly the amount of the gain or loss accruing on the disposal shall be computed without regard to the provisions of this Part of this Schedule except that in a case where this sub-paragraph would otherwise substitute a loss for a gain or a gain for a loss it shall be assumed, in relation to the disposal, that the relevant assets were sold by the owner, and immediately re-acquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.

Apportionment by reference to straightline growth of gain or loss over period of ownership.

- 24 (1) This paragraph applies subject to the provisions of the last foregoing two paragraphs.
- (2) On the disposal of assets by a person whose period of ownership began before 6th April 1965 only so much of any gain accruing on the disposal as is under this paragraph to be apportioned to the period beginning with 6th April 1965 shall be a chargeable gain.
- (3) Subject to the following provisions of this Schedule, the gain shall be assumed to have grown at a uniform rate from nothing at the beginning of the period of ownership to its full amount at the time of the disposal so that, calling the part of that period before 6th April 1965 P, and the time beginning with 6th April 1965 and ending with the time of the disposal T, the fraction of the gain which is a chargeable gain is

$$\frac{T}{P + T}$$

- (4) If any of the expenditure which is allowable as a deduction in the computation under this Schedule of the gain is within paragraph 4(1)(b) of this Schedule—
- (a) the gain shall be attributed to the expenditure, if any, allowable under paragraph (a) of the said paragraph 4(1) as one item of expenditure, and to the respective items of expenditure under the said paragraph 4(1)(b) in proportion to the respective amounts of those items of expenditure,
- (b) sub-paragraph (3) of this paragraph shall apply to the part of the gain attributed to the expenditure under the said paragraph 4(1)(c),
- (c) each part of the gain attributed to the items of expenditure under the said paragraph 4(1)(b) shall be assumed to have grown at a uniform rate from nothing at the time when the relevant item of expenditure was first reflected in the value of the asset to the full amount of that part of the gain at the time of the disposal,

so that, calling the respective proportions of the gain E(f), E(1), E(2) and so on (so that they add up to unity) and calling the respective periods from the times when the items under the said paragraph 4(1)(b) were reflected in the value of the asset to 5th April 1965 P(1), P(2) and so on, and employing also the abbreviations in sub-paragraph (3) above, the fraction of the gain which is a chargeable gain is

$$E(0) \frac{T}{P+T} + E(1) \frac{T}{P(1)+T} + E(2) \frac{T}{P(2)+T}$$

and so on.

- (5) In a case within sub-paragraph (4) above where there is no initial expenditure (that is no expenditure under paragraph 4(1)(a) of this Schedule) or that initial expenditure is,

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compared with any item of expenditure under paragraph 4(1)(b), disproportionately small having regard to the value of the asset immediately before the subsequent item of expenditure was incurred, the part of the gain which is not attributable to the enhancement of the value of the asset due to any item of expenditure under the said paragraph 4(1)(b) shall be deemed to be attributed to expenditure incurred at the beginning of the period of ownership and allowable under paragraph 4(1)(a), and the part or parts of the gain attributable to expenditure under paragraph 4(1)(b) shall be reduced accordingly.

- (6) The beginning of the period over which a gain, or a part of a gain, is, under sub-paragraphs (3) and (4) above, to be treated as growing shall not be earlier than 6th April 1945, and this sub-paragraph shall have effect notwithstanding any provision in this Schedule or elsewhere in this Part of this Act.
- (7) If in pursuance of paragraph 7 in Part I of this Schedule an asset's market value at a date before 6th April 1965 is to be ascertained sub-paragraphs (3) to (5) above shall have effect as if that asset had been on that date sold by the owner, and immediately re-acquired by him, at that market value.
- (8) If in pursuance of the said paragraph 7 an asset's market value at a date on or after 6th April 1965 is to be ascertained sub-paragraphs (3) to (5) above shall have effect as if—
 - (a) the asset on that date had been sold by the owner, and immediately re-acquired by him, at that market value, and
 - (b) accordingly, the computation of any gain on a subsequent disposal of that asset shall be computed—
 - (i) by apportioning in accordance with this paragraph the gain or loss over a period ending on the said date (the date of the part disposal), and
 - (ii) by bringing into account the entire gain or loss over the period from the date of the part disposal to the date of subsequent disposal.
- (9) For the purposes of this paragraph the period of ownership of an asset shall, where under paragraph 8 of this Schedule account is to be taken of expenditure in respect of an asset from which the asset disposed of was derived, or where it would so apply if there were any relevant expenditure in respect of that other asset, include the period of ownership of that other asset.
- (10) If under this paragraph part only of a gain is a chargeable gain, the fraction in section 29(3) of this Act shall be applied to that part, instead of to the whole of the gain.

Election for valuation on 6th April 1965.

- 25 (1) If the person making a disposal so elects by notice in writing to the inspector within two years from the date of the disposal paragraph 24 of this Schedule shall not apply in relation to that disposal and it shall be assumed, both for the purposes of computing under this Schedule the gain accruing to that person on the disposal, and for all other purposes both in relation to that person and other persons, that the assets disposed of, and any assets of which account is to be taken in relation to the disposal under paragraph 8 of this Schedule, being assets which were in the ownership of the said person on 6th April 1965, were on that date sold, and immediately re-acquired, by him at their market value on the said 6th April 1965.

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- (2) Sub-paragraph (1) shall not apply in relation to a disposal of assets if on the assumption in that sub-paragraph a loss would accrue on that disposal to the person making the disposal and either a smaller loss or a gain would accrue if the said sub-paragraph (1) did not apply, but in a case where this sub-paragraph would otherwise substitute a gain for a loss it shall be assumed, in relation to the disposal that the relevant assets were sold by the owner, and immediately re-acquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.

The displacement of sub-paragraph (1) above by this sub-paragraph shall not be taken as bringing paragraph 24 of this Schedule into operation.

- (3) For the avoidance of doubt it is hereby declared that an election under this paragraph is irrevocable.
- (4) An election may not be made under this paragraph as respects, or in relation to, an asset the market value of which at a date on or after 6th April 1965, and before the date of the disposal to which the election relates, is to be ascertained in pursuance of paragraph 7 in Part I of this Schedule.

Shares, commodities, etc.

- 26 (1) This paragraph has effect as respects shares held by any person on 6th April 1965 other than shares which are to be treated under this Part of this Act as if disposed of and immediately re-acquired by him on that date.
- (2) Paragraph 2 of Schedule 7 to this Act shall not apply in relation to the shares while that person continues to hold them and, in particular, shall not apply in relation to a disposal of the shares by him.
- (3) For the purpose of—
- (a) identifying the shares so held on 6th April 1965 with shares previously acquired, and
 - (b) identifying the shares so held on that date with shares subsequently disposed of, and distinguishing them from shares acquired subsequently,
- so far as the shares are of the same class shares bought at an earlier time shall be deemed to have been disposed of before shares bought at a later time.
- (4) Shares shall not be treated for the purposes of this paragraph as being of the same class unless if dealt with on a recognised stock exchange in the United Kingdom or elsewhere they would be so treated, but shall be treated in accordance with this paragraph notwithstanding that they are identified in a different way by a disposal or by the transfer or delivery giving effect to it.
- (5) This paragraph shall not apply to any shares the disposal of which by the said person 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 chargeable to income tax under Case VII of Schedule D or that, if a gain had so accrued, it would have been so chargeable), 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.

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- (6) This paragraph, without sub-paragraph (4), shall apply in relation to any assets, other than shares, which are of a nature to be dealt with without identifying the particular assets disposed of or acquired.

Reorganisation of share capital, conversion of securities, etc.

- 27 (1) For the purposes of this Part of this Act, including Part I of this Schedule, it shall be assumed that any shares or securities held by a person on 6th April 1965 (identified in accordance with the last foregoing paragraph) which, in accordance with paragraph 4 of Schedule 7 to this Act as extended by paragraphs 5 and 6 of that Schedule, are to be regarded as being or forming part of a new holding were sold and immediately re-acquired by him on 6th April 1965 at their market value on that date.
- (2) If, at any time after 5th April 1965, a person comes to have, in accordance with the said paragraph 4 as so extended, a new holding sub-paragraphs (3) to (5) of paragraph 24 of this Schedule shall have effect as if—
- (a) the new holding had at that time been sold by the owner, and immediately reacquired by him, at its market value at that time, and
 - (b) accordingly, the amount of any gain on a disposal of the new holding or any part of it shall be computed—
 - (i) by apportioning in accordance with the said paragraph 24 the gain or loss over a period ending at the said time, and
 - (ii) by bringing into account the entire gain or loss over the period from that time to the date of the disposal.
- (3) This paragraph shall not apply in relation to a reorganisation of a company's share capital if the new holding differs only from the original shares in being a different number, whether greater or less, of shares of the same class as the original shares.

Capital allowances.

- 28 If under any provision in this Part of this Schedule it is to be assumed that any asset was on 6th April 1965 sold by the owner, and immediately reacquired by him, paragraph 6 of this Schedule shall apply in relation to any capital allowance or renewals allowance as defined in that paragraph, made in respect of the expenditure actually incurred by the owner in providing the asset, and so made for the year 1965-66 or for any subsequent year of assessment, as if it were made in respect of the expenditure which, on the said assumption, was incurred by him in re-acquiring the asset on 7th April 1965.

Assets transferred to close companies.

- 29 (1) This paragraph has effect—
- (a) where at any time, including a time before 7th April 1965, any of the persons having control of a close company, or any person who (in the terms of paragraph 21 of Schedule 7 to this Act) is connected with a person having control of a close company has transferred assets to the company, and
 - (b) paragraph 24 of this Schedule applies in relation to a disposal by one of the persons having control of the company of shares or securities in the company, or in relation to a disposal by a person having, up to the time of disposal, a substantial holding of shares or securities in the company, being in either case a disposal after the transfer of the assets.

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- (2) So far as the gain accruing to the said person on the disposal of the shares is attributable to a profit on the assets so transferred, the period over which the gain is to be treated under the said paragraph 24 as growing at a uniform rate shall begin with the time when the assets were transferred to the company, and accordingly a part of a gain attributable to a profit on assets transferred on or after 6th April 1965 shall all be a chargeable gain.
- (3) This paragraph shall not apply where a loss, and not a gain, accrues on the disposal.
- (4) In this paragraph "close company" means a close company as defined in Schedule 18 to this Act.

Husbands and wives to be treated as one person.

- 30 Where paragraph 20 of Schedule 7 to this Act is applied in relation to a disposal of an asset by a man to his wife, or by a man's wife to him, then in relation to a subsequent disposal of the asset (not within the said paragraph 20) the one making the disposal shall be treated for the purposes of this Part of this Schedule as if the other's acquisition or provision of the asset had been his or her acquisition or provision of it.

Supplemental.

- 31 So far as the provisions of this Part of this Act as modified by this Part of this Schedule require the computation of a gain by reference to events before 6th April 1965 all those provisions including Part I of this Schedule, and Schedules 7 and 8 and the provisions fixing the amount of the consideration deemed to be given on a disposal or acquisition, shall apply except so far as expressly excluded.