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SCHEDULES.

SCHEDULE 6

CAPITAL GAINS: COMPUTATION.

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

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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.

- (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.

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(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
- (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,

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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, 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.

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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.
- (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.

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- (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.
- (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—

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- (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.
- (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.