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SCHEDULES.

SCHEDULE 8

CAPITAL GAINS: LEASES.

Exclusion of premiums taxed under Case VIII of Schedule D, etc.

- 5 (1) Where by reference to any premium income tax has become chargeable under section 22 of the Finance Act 1963 on any amount, that amount out of the premium shall be excluded from the consideration brought into account in the computation under paragraph 7 of Schedule 6 to this Act, except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made.
- (2) Where by reference to any premium in respect of a sub-lease granted out of a lease the duration of which (that is of the lease) does not, at the time of granting the lease, exceed fifty years, income tax has become chargeable under the said section 22 on any amount that amount shall be deducted from any gain accruing on the disposal for which the premium is consideration as computed in accordance with the provisions of this Part of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or to increase any loss.
- (3) If under section 22(6) of the said Act (premiums payable by instalments) a claim is made as respects any amount, the whole of that amount shall be so excluded or deducted, and on the allowance of the claim all such adjustments shall be made, whether by discharge or repayment of tax or otherwise, as are required to give effect to the provisions of this sub-paragraph.
- (4) Where income tax has become chargeable under section 24 of the Finance Act 1963 (sale of land with right of re-conveyance) on any amount a sum of that amount shall be excluded from the consideration brought into account in the computation under Schedule 6 to this Act of a gain accruing on the disposal of the estate or interest in respect of which income tax becomes so chargeable, except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made under paragraph 7 of the said Schedule 6:
- Provided that if what is disposed of is the remainder of a lease or a sub-lease out of a lease the duration of which does not exceed fifty years the foregoing provisions of this sub-paragraph shall not apply but the said amount shall be deducted from any gain accruing on the disposal as computed in accordance with the provisions of this Part of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or to increase any loss.
- (5) References in sub-paragraph (1) and (2) above to a premium include references to a premium deemed to have been received under subsection (3) or subsection (4) of section 22 of the Finance Act 1963 (which correspond to paragraph 3(2)(3) of this Schedule).

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- (6) Paragraph 2 of Schedule 6 to this Act shall not be taken as authorising the exclusion of any amount from the consideration for a disposal of assets taken into account in the computation under that Schedule by reference to any amount chargeable to tax under Chapter II of Part II of the Finance Act 1963.
- 6 (1) If under paragraph 9(1) of Schedule 4 to the Finance Act 1963 (allowance where, by the grant of a sub-lease, a lessee has converted a capital amount into a right to income) a person is to be treated as paying additional rent in consequence of having granted a sub-lease, the amount of any loss accruing to him on the disposal by way of the grant of the sub-lease shall be reduced by the total amount of rent which he is thereby treated as paying over the term of the sub-lease (and without regard to whether relief is thereby effectively given over the term of the sub-lease), but not so as to convert the loss into a gain, or to increase any gain.
- (2) Nothing in paragraph 2 of Schedule 6 to this Act shall be taken as applying in relation to any amount on which tax is paid under section 23 of the Finance Act 1963 (charge on assignment of lease granted at undervalue).
- (3) If any adjustment is made under section 24(2)(b) of the Finance Act 1963 on a claim under that paragraph, any necessary adjustment shall be made to give effect to the consequences of the claim on the operation of this or the last foregoing paragraph.
- 7 If under section 22(2) of the Finance Act 1963 income tax is chargeable on any amount, as being a premium the payment of which is deemed to be required by the lease, the person so chargeable shall be treated for the purposes of the computation of any gain accruing to him on a disposal of the lease as having incurred at the time the lease was granted expenditure of that amount (in addition to any other expenditure) attributable to the asset under paragraph 4(1)(b) of Schedule 6 to this Act.