

SCHEDULES.

SCHEDULE 10

Section 43.

CAPITAL GAINS.

PART I

CAPITAL GAINS TAX AND CORPORATION TAX

Life interests in settled property.

- 1 (1) Section 25(4) of the Finance Act 1965 (notional disposal of settled property when a life interest in any part of the settled property terminates) shall not apply on the occasion of the termination of the trusts of the settlement as respects any part of the settled property by the exercise of a power for that purpose contained in the settlement or of a statutory power of advancement or by the surrender of a life interest in such a part for the purpose of advancement, if all the property as respects which the life interest terminates thereby ceases to be settled property under the settlement.
- (2) The said section 25(4), and section 26(9)(a) of the said Act (which defines references to capital gains tax chargeable in consequence of a death), shall apply where after 3rd May 1966 the person entitled to a life interest in possession in all or any part of settled property dies (although the life interest does not then terminate) as they apply on the termination of such a life interest.
- (3) In subsection (10)(a) of the said section 25 (which defines "life interest" as including certain limited interests) for the words from "for the life of another" to the end of the paragraph there shall be substituted the words "for the life of a person other than the person entitled to the right, or for lives", but not so as to apply the said section 25(4) on any occasion on or before 4th May 1966.
- (4) In the said section 25 the expression "life interest" shall, notwithstanding subsection (10)(c) of that section (which excludes annuities) include entitlement to an annuity created by the settlement if—
- (a) some or all of the settled property is appropriated by the trustees as a fund out of which the annuity is payable, and
 - (b) there is no right of recourse to settled property not so appropriated, or to the income of settled property not so appropriated,
- and, without prejudice to subsection (12) of the said section 25, the settled property so appropriated shall, while the annuity is payable, and on the occasion of the death of the annuitant, be treated for the purposes of subsections (4), (5), (6) and (7) of the said section 25 as being settled property under a separate settlement.

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Transfer of business on retirement.

- 2 (1) Subject to sub-paragraph (2) below, section 34(1)(b) of the Finance Act 1965 (relief from capital gains tax for an individual disposing of shares or securities of his family company on his retirement) shall apply where under paragraph 3 of Schedule 7 to the Finance Act 1965 he is treated as disposing of interests in shares or securities of a company in consideration of a capital distribution from the company in the course of dissolving or winding up the company as it applies where he disposes of shares or securities of a company by way of sale or gift.
- (2) Sub-paragraph (1) above shall not apply if the capital distribution consists wholly of chargeable business assets of the company, and if it consists partly of chargeable business assets (and partly of money or money's worth), relief shall only be given under the said section 34 in respect of that proportion of the gains accruing on the disposal which the part of the capital distribution not consisting of chargeable business assets bears to the entire capital distribution.
- (3) Paragraphs (a) and (b) of the said section 34(1) (which each impose conditions to be satisfied throughout the period of ten years ending with the disposal) shall apply where throughout part of the said period of ten years the conditions in either of those paragraphs were fulfilled and throughout the remainder of that period the conditions in the other paragraph were fulfilled.

Definition of investment trust.

- 3 (1) Section 37(3)(b) of the Finance Act 1965 (which allows an investment trust as defined in that section to have a holding representing more than the limit of fifteen per cent. of its investments imposed by subsection (2)(b) of that section if the holding was acquired on or after 6th April 1965 and did not exceed that limit when it was acquired) shall also apply to a holding acquired before the said date and accordingly the words "acquired on or after that date" in the said subsection (3)(b) shall cease to have effect.
- (2) All such adjustments shall be made, whether by the discharge or repayment of tax or otherwise, as are required to give effect to the provisions of this paragraph.

Part disposal of land to authority with compulsory powers.

- 4 (1) This paragraph applies to a transfer after 6th April 1965 of land forming part only of a holding of land to an authority exercising or having compulsory powers where—
- (a) the amount or value of the consideration for the transfer, or if the transfer is not for full consideration in money or money's worth, the market value of the land transferred, is small, as compared with the market value of the holding as it subsisted immediately before the transfer, and
 - (b) the transferor had not taken any steps by advertising or otherwise to dispose of any part of the holding or to make his willingness to dispose of it known to the authority or others.
- (2) If the transferor so claims, the transfer shall not be treated for the purposes of Part III of the Finance Act 1965 as a disposal, but all sums which, if it had been so treated, would have been brought into account as consideration for that disposal in the computation under Schedule 6 to that Act of a gain accruing on the disposal shall be deducted from any expenditure allowable under that Schedule as a deduction in computing a gain on any subsequent disposal of the holding.

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- (3) For the purposes of this paragraph the holding of land shall comprise only the land in respect of which the expenditure allowable under paragraphs (a) and (b) of paragraph 4(1) of Schedule 6 to the Finance Act 1965 would be apportioned under paragraph 7 of that Schedule if the transfer had been treated as a disposal (that is, as a part disposal of the holding).
- (4) In this paragraph references to a holding of land include references to an estate or interest in a holding of land, not being an estate or interest which is a wasting asset, and references to part of a holding shall be construed accordingly.
- (5) In this paragraph " authority exercising or having compulsory powers " means, in relation to the land transferred, a person or body of persons acquiring it compulsorily or who has or have been, or could be, authorised to acquire it compulsorily for the purposes for which it is acquired, or for whom another person or body of persons has or have been, or could be, authorised so to acquire it.

Expenses of valuation, & c., incurred by personal representatives.

- 5 In computing under Schedule 6 to the Finance Act 1965 the gain accruing on a disposal of assets deemed to be made by an individual on his death, the sums allowable as a deduction under paragraph 4 of that Schedule shall include any costs incurred by the personal representatives or other persons on whom the assets devolve which would have been incidental costs of making the disposal within sub-paragraph (2) of that paragraph if they had been incurred by the deceased.

Assets held on 6th April 1965 and affected by a company amalgamation.

- 6 (1) The reference in paragraph 27(1) of Schedule 6 to the Finance Act 1965 to paragraph 6 of Schedule 7 to that Act (company amalgamations) shall include a reference to that paragraph as extended by paragraph 7 of that Schedule.
- (2) This paragraph has effect as respects any disposal of shares or securities on or after 17th May 1966.

Apportionment of cost of acquisition of new holding of shares, etc.

- 7 (1) This paragraph shall apply to a new holding, as denned in sub-paragraph (1)(b) of paragraph 4 of Schedule 7 to the Finance Act 1965 (which, as extended by section 45(8) of that Act, provides for a new holding resulting from a reorganisation or reduction of the capital of a company or unit trust scheme being treated as the same as the original holding)—
 - (a) if it consists of more than one class of shares in or debentures of the company and one or more of those classes is of shares or debentures which, at any time not later than the end of the period of three months beginning with the date on which the reorganisation or reduction of capital took effect, or of such longer period as the Board may by notice in writing allow, had quoted market values on a recognised stock exchange in the United Kingdom or elsewhere, or
 - (b) if it consists of more than one class of rights of unit holders and one or more of those classes is of rights the prices of which were published daily by the managers of the scheme at any time not later than the end of that period of three months (or longer if so allowed).

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- (2) Where for the purpose of computing the gain or loss accruing to a person from the acquisition and disposal of the whole or any part of any class of shares or securities or rights of unit holders forming part of a new holding to which this paragraph applies it is necessary to apportion costs of acquisition between what is disposed of and what is retained, the cost of acquisition of the new holding shall first be apportioned between the entire classes of shares or debentures or rights of which it consists by reference to market value on the first day (whether that day fell before the reorganisation or reduction of capital took effect or later) on which market value or prices were quoted or published for the shares, debentures or rights as mentioned in sub-paragraph (1) (a) or (1)(b) above (with such adjustment of the market value of any class as may be required to offset any liability attaching thereto but forming part of the cost to be apportioned); and this sub-paragraph shall have effect notwithstanding sub-paragraph (5) of the said paragraph 4 (which requires apportionment by reference to market value at the date of disposal).
- (3) The foregoing provisions of this paragraph shall have effect as if contained in the said paragraph 4, and paragraphs 5, 6 and 7 of the said Schedule 7 (which apply the said paragraph 4 subject to modifications) shall have effect accordingly.
- (4) For the purposes of this paragraph the day on which a reorganisation of share capital involving the allotment of shares or debentures or unit holders' rights takes effect is the day following the day on which the right to renounce any allotment expires.
- (5) This paragraph applies to a disposal of part of a new holding at any time after the end of the year 1965-66 and, if a person so elects by notice in writing given to the inspector not later than the end of the year 1966-67 as respects a new holding, it shall also apply to a disposal by that person of part of that new holding at any time in the year 1965-66; and such adjustments shall be made whether by way of discharge or repayment of tax or assessment to tax' or otherwise as are required to give effect to the election.

Disposal of right to acquire shares.

- 8 (1) Where a person receives or becomes entitled to receive in respect of any shares in a company a provisional allotment of shares in or debentures of the company and he disposes of his rights paragraph 3 of Schedule 7 to the Finance Act 1965 shall apply as if the amount of the consideration for the disposal were a capital distribution received by him from the company in respect of the first-mentioned shares, and as if that person had, instead of disposing of the rights, disposed of an interest in those shares.
- (2) If under Part II of Schedule 6 to the Finance Act 1965 it is to be assumed that, at a time after the creation of the rights and before their disposal, the said person sold and immediately reacquired the shares in respect of which the rights were created, the same assumption shall be made as respects the rights.
- (3) This paragraph shall apply in relation to rights obtained in respect of debentures of a company as it applies in relation to rights obtained in respect of shares in a company.
- (4) Sub-paragraph (6) of paragraph 4 of the said Schedule 7 (which is superseded by this paragraph) shall cease to have effect.

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Capital receipts not treated as disposals.

- 9 (1) The following provisions (under which the consideration for a part disposal of an asset, instead of giving rise to a gain (or loss) accruing on the part disposal, goes to reduce the expenditure allowable in computing a gain accruing on a subsequent disposal of the asset), that is—
- (a) paragraphs (b) and (c) of paragraph 13(1) of Schedule 6 to the Finance Act 1965,
 - (b) paragraph 3(2) of Schedule 7 to that Act (as extended by paragraph 8 of this Schedule), and
 - (c) paragraph 4 of this Schedule,
- shall have effect subject to the provisions of this paragraph.
- (2) None of those provisions shall apply if immediately before the part disposal there is no expenditure attributable to the asset under paragraphs (a) and (b) of paragraph 4(1) of Schedule 6 to the Finance Act 1965 (deductions allowable in computing a gain), or if the consideration for the part disposal exceeds that expenditure but, if there is any such expenditure and the recipient so elects.—
- (a) the amount of the consideration for the part disposal shall be reduced by the amount of that expenditure, and
 - (b) none of that expenditure shall be allowable as a deduction in computing a gain accruing on the occasion of the part disposal or any subsequent occasion.

Insolvents' assets.

- 10 (1) In relation to assets held by a person as trustee or assignee in bankruptcy or under a deed of arrangement Part III of the Finance Act 1965 shall apply as if the assets were vested in, and the acts of the trustee or assignee in relation to the assets were the acts of, the bankrupt or debtor (acquisitions from or disposals to him by the bankrupt or debtor being disregarded accordingly), and tax in respect of any chargeable gains which accrue to any such trustee or assignee shall be assessable on and recoverable from him.
- (2) Assets held by a trustee or assignee in bankruptcy or under a deed of arrangement at the death of the bankrupt or debtor shall for the purposes of the said Part III be regarded as held by a personal representative of the deceased and—
- (a) sub-paragraph (1) above shall not apply after the death, and
 - (b) section 24(1) of the Finance Act 1965 (under which assets passing on a death are deemed to be disposed of by the deceased) shall apply as if any assets held by a trustee or assignee in bankruptcy or under a deed of arrangement at the death of the bankrupt or debtor were assets of which the deceased was competent to dispose and which then devolved on the trustee or assignee as if he were a personal representative.
- (3) Assets vesting in a trustee in bankruptcy after the death of the bankrupt or debtor shall for the purposes of the said Part III be regarded as held by a personal representative of the deceased, and sub-paragraph (1) above shall not apply.
- (4) Where in consequence of the foregoing provisions of this paragraph there is more than one person who is or is to be regarded as the personal representative of a deceased person, the amount available for relief under subsection (2) of the said section 24 of the Finance Act 1965 shall be apportioned between them according to

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the respective values of the property devolving or to be regarded as devolving on them on the death.

- (5) The definition of "settled property" in section 45(1) of the Finance Act 1965 shall not include any property as being property held by a trustee or assignee in bankruptcy or under a deed of arrangement.
- (6) In this paragraph "deed of arrangement" means a deed of arrangement to which the Deeds of Arrangement Act 1914 or any corresponding enactment forming part of the law of Scotland or Northern Ireland applies.

Policies of insurance.

- 11 In paragraph 10(1) of Schedule 7 to the Finance Act 1965 the words from the beginning to "neither" exclusive in line 5 shall be omitted.

Commencement.

- 12 Except as otherwise expressly provided, this Part of this Schedule, as it relates to capital gains tax chargeable under Part III or Part IV of the Finance Act 1965, shall have effect for the year 1965-66 as well as later years of assessment.

Construction.

- 13 This Part of this Schedule shall be construed as one with Part III of the Finance Act 1965.

PART II

SHORT-TERM CAPITAL GAINS

Insolvents' assets.

- 14 (1) For the purposes of section 12(5) of the Finance Act 1962 (property held by nominee or trustee for a person absolutely entitled to the property) assets held by a person as trustee or assignee in bankruptcy or under a deed of arrangement shall be regarded as assets to which the bankrupt or debtor is absolutely entitled as against the trustee or assignee and, without prejudice to the general provisions of the Income Tax Acts as to the assessment of any such trustee or assignee, tax in respect of any gain accruing on an acquisition and disposal shall be assessable on and recoverable from any such trustee or assignee not only where the acquisition and disposal were effected by him but also where either the acquisition or disposal was effected by him and the other was effected by the bankrupt or debtor.
- (2) Assets vesting in a trustee in bankruptcy after the death of the bankrupt, or held by a trustee or assignee in bankruptcy or under a deed of arrangement at the death of the bankrupt or debtor, shall for the purposes of Case VII be regarded as held by a personal representative of the deceased, and sub-paragraph (1) above shall not apply after the death.
- (3) In this paragraph "deed of arrangement" has the same meaning as in paragraph 10 above.

- (4) Section 15(6) of the Finance Act 1962 (which exempts short-term gains accruing to a person as trustee or assignee in bankruptcy) shall cease to have effect.
- (5) This paragraph does not have effect in relation to assets transferred from the bankrupt or debtor before 4th May 1966.

Apportionment of cost of acquisition of new holding of shares, etc.

- 15 (1) This paragraph shall apply to a new holding, as denned in sub-paragraph (1)(b) of paragraph 10 of Schedule 9 to the Finance Act 1962 (which, as extended by section 16(4) of that Act, provides for a new holding resulting from a reorganisation or reduction of the capital of a company or unit trust scheme being treated as the same as the original holding)—
- (a) if it consists of more than one class of shares in or debentures of the company and one or more of those classes is of shares or debentures which, at any time not later than the end of the period of three months beginning with the date on which the reorganisation or reduction of capital took effect, or of such longer period as the Board may by notice in writing allow, had quoted market values on a recognised stock exchange in the United Kingdom or elsewhere, or
 - (b) if it consists of more than one class of rights of unit holders and one or more of those classes is of rights the prices of which were published daily by the managers of the scheme at any time not later than the end of that period of three months (or longer if so allowed).
- (2) Where for the purpose of computing the gain or loss accruing to a person from the acquisition and disposal of the whole or any part of any class of shares or securities or rights of unit holders forming part of a new holding to which this paragraph applies it is necessary to apportion costs of acquisition between what is disposed of and what is retained, the cost of acquisition of the new holding shall first be apportioned between the entire classes of shares or debentures or rights of which it consists by reference to market value on the first day (whether that day fell before the reorganisation or reduction of capital took effect or later) on which market values or prices were quoted or published for the shares, debentures or rights as mentioned in sub-paragraph (1) (a) or (1)(b) above (with such adjustment of the market value of any class as may be required to offset any liability attaching thereto but forming part of the cost to be apportioned); and this sub-paragraph shall have effect notwithstanding sub-paragraph (5) of the said paragraph 10 (which requires apportionment by reference to market value at the date of disposal).
- (3) The foregoing provisions of this paragraph shall have effect as if contained in the said paragraph 10 and paragraphs 11, 12 and 13 of the said Schedule 9 (which apply the said paragraph 10 subject to modifications) shall have effect accordingly.
- (4) For the purposes of this paragraph the day on which a reorganisation of share capital involving the allotment of shares or debentures or unit holders' rights takes effect is the day following the day on which the rights to renounce any allotment expires.
- (5) This paragraph applies to a disposal of part of a new holding at any time after the end of the year 1965-66 and, if a person so elects by notice in writing given to the inspector not later than the end of the year 1966-67 as respects a new holding, it shall also apply to a disposal by that person of part of that new holding at any time in the year 1965-66 ; and such adjustments shall be made whether by way of discharge or

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repayment of tax or assessment to tax or otherwise as are required to give effect to the election.