



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART VI

SCHEDULE D

CHAPTER VIII

CASE VII: INCOME TAX ON SHORT TERM CAPITAL GAINS

160 Scope of charge under Case VII

- (1) The charge to tax under Case VII of Schedule D (in this Chapter referred to as "Case VII") is a charge to income tax only, and income tax under that Case for any year of assessment shall be charged, subject to and in accordance with the rules contained in this Chapter, in respect of all gains accruing to any person resident and ordinarily resident for the year in the United Kingdom from his acquisition and disposal of any chargeable assets, not being gains which accrue as profits of a trade, profession, vocation, office or employment:

Provided that there shall be no acquisition and disposal within the meaning of this Chapter where the disposal occurs more than twelve months after the acquisition.

- (2) The tax with which a person is chargeable under Case VII for any year of assessment shall be computed on the gains accruing to him in that year after deducting any losses allowable under that Case against those gains, and the amount or net amount on which tax is charged in accordance with this subsection shall be deemed for income tax purposes to be income for the year of assessment of the person chargeable.
- (3) Subject to subsection (6) below, a gain on the acquisition and disposal of an asset shall for the purposes of Case VII be treated as accruing at the time of the disposal or, if that precedes the acquisition, the time of the acquisition.
- (4) Subject to the provisions of this Chapter, the losses allowable under Case VII against gains accruing to a person in any year of assessment shall consist of any losses accruing

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

to him in that or any previous year from any chargeable acquisition and disposal, that is to say, from his acquisition and disposal of assets in such circumstances that a gain accruing from it would have been chargeable under that Case; and a loss shall be treated as accruing at the same time, and be computed in the same manner, as a gain would be.

- (5) The preceding provisions of this section with respect to losses allowable under Case VII shall not prejudice any right to relief in respect of other losses from tax chargeable under that Case, or otherwise affect any other provision of the Income Tax Acts with respect to losses; but no deduction shall be made under that Case of a loss, or part of a loss, in respect of which relief from tax has already been allowed by such a deduction or otherwise, and, where such a deduction is made, no relief from tax in respect of the loss or that part of it shall be allowed under any other provision of the Income Tax Acts.
- (6) In the case of individuals resident and ordinarily resident, but not domiciled, in the United Kingdom, tax under Case VII shall not be charged in respect of gains arising to them out of the United Kingdom, except that tax shall be charged on the amounts (if any) received in the United Kingdom in respect of those gains, any such amounts being treated as gains accruing when they are received in the United Kingdom; and accordingly losses arising out of the United Kingdom to any such individual shall not be allowable under Case VII.

For the purposes of this subsection, there shall be treated as received in the United Kingdom in respect of any gain all amounts paid, used or enjoyed in, or in any manner or form transmitted or brought to, the United Kingdom, and subsections (4) to (7) of section 122 of this Act (under which income applied outside the United Kingdom in payment of debts is, in certain cases, treated for the purposes of Cases IV and V of Schedule D as received in the United Kingdom) shall apply as they would apply for the purposes of subsection (3) of that section if the gain were income arising from possessions out of the United Kingdom.

161 Chargeable assets

- (1) Subject to the provisions of this section, all forms of property, whether situated in the United Kingdom or not, (including options, debts and incorporeal property generally) shall be chargeable assets for the purposes of Case VII.
- (2) The dwelling-house, or part of a dwelling-house, which is an individual's only or main residence shall not be a chargeable asset in relation to any acquisition and disposal of it by him, nor shall land which he has for his own occupation and enjoyment with that residence as its garden or grounds up to an area (inclusive of the site of the dwelling-house) of one acre, or such larger area as the Commissioners concerned may in any particular case determine on being satisfied that, regard being had to the size and character of the dwelling-house, the larger area is required for the reasonable enjoyment of it, or of the part in question, as a residence.

This subsection shall not apply by reason of a person's use of any dwelling-house, part of a dwelling-house or land for a purpose within the subsection unless his acquisition of it was made for that purpose, and not wholly or partly for the purpose of realising a gain from the disposal of it; but where a person acquires land as a site for a dwelling-house, and disposes of it after the erection of the dwelling-house, this subsection shall not be prevented from applying by reason of his not having acquired the land with the dwelling-house on it.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

In the case where part of the land occupied with the residence is, and part is not, to be treated under this subsection as a chargeable asset, then, up to the permitted area, that part shall be taken not to be a chargeable asset which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residence.

- (3) Chargeable assets shall not include any asset which is tangible movable property and is a wasting asset, or any interest in tangible movable property which is a wasting asset:

Provided that this exception shall not apply to a disposal of commodities of any description by a person dealing on a terminal market, or dealing with or through a person ordinarily engaged in dealing on a terminal market.

- (4) Currency of any description other than sterling shall be chargeable assets, except in relation to an acquisition and disposal by an individual for the personal expenditure outside the United Kingdom of himself or his family or dependants (including expenditure on the provision or maintenance of any residence outside the United Kingdom).
- (5) Patent rights (that is to say, the right to do or authorise the doing of anything which would, but for that right, be an infringement of a patent) shall not be chargeable assets, nor shall rights to acquire in the future patent rights as respects any invention in respect of which the patent has not yet been granted.

162 General operation of charge

- (1) Subject to the provisions of this section, any acquisition of an interest or right in or over assets (whether it continues after or ceases on the acquisition), or any disposal of such an interest or right (whether it subsists before or is created by the disposal), shall be deemed for the purposes of Case VII to be an acquisition or a disposal of the assets, and, except in so far as the context otherwise requires, the expressions "acquire" and "dispose of" shall be construed accordingly.
- (2) For the purposes of Case VII, where a contract is made to acquire or dispose of an asset (including an asset not in existence or not ascertained at the time of the contract), the contract shall be deemed to be the acquisition or disposal of the asset (for the consideration provided for by the contract), and the conveyance or transfer of an asset, or of an interest or right in or over an asset, in pursuance of a contract previously made shall not be deemed to be an acquisition or disposal of the asset.
- (3) The conveyance or transfer by way of security of an asset, or of an interest or right in or over an asset, or the transfer of a subsisting interest or right by way of security in or over an asset (including a retransfer on redemption of the security), shall not be treated for the purposes of Case VII as involving any acquisition or disposal of the asset.
- (4) Subject to subsection (5) below, and to the provisions of Schedule 7 to this Act, a person's acquisition of any asset, and the disposal of it to him, shall for the purposes of Case VII be deemed to be for a consideration equal to the market value of the asset or of the interest or right in or over it received by him—
- where he acquires the asset otherwise than by way of a bargain made at arm's length, and (in particular) where he acquires it by way of gift, or by way of distribution from a company in respect of shares in the company, or
 - where he acquires the asset wholly or partly for a consideration that cannot be valued, or in connection with his own or another's loss of office or employment or diminution of emoluments, or otherwise in consideration for or recognition

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

of his or another's services or past services in any office or employment or of any other services rendered or to be rendered by him or another.

- (5) Where, on a person's acquisition of an asset, the asset or the interest or right in or over it received by him falls to be taken into account for the purposes of tax as a receipt of an income nature (whether as his receipt or another's), or would fall to be so taken into account if he (or, as the case may be, that other) were chargeable to tax in respect of the whole of his income, his acquisition shall for the purposes of Case VII be deemed to be for a consideration equal to the amount or value attributed to the asset, or the interest or right in or over it, for that purpose.

163 Operation in special cases (trust assets, devolution on death, enforcement of securities etc.)

- (1) In relation to assets held by a person—
- (a) as nominee for another person, or
 - (b) as trustee for another person absolutely entitled as against the trustee, or for another person who would be so entitled but for being an infant or other person under disability, or for two or more persons who are or would be jointly so entitled,

this Chapter shall apply as if the property were vested in, and the acts of the nominee or trustee in relation to the assets were the acts of, the person or persons for whom he is nominee or trustee (acquisitions from or disposals to him by that person or persons being disregarded accordingly).

- (2) In relation to settled property, the trustees of the settlement shall for the purposes of Case VII be treated as being a single and continuing body of persons (distinct from the persons who may from time to time be the trustees), and that body shall be treated as being resident and ordinarily resident in the United Kingdom unless the general administration of the trusts is ordinarily carried on outside the United Kingdom and the trustees, or a majority of them for the time being, are not resident or not ordinarily resident in the United Kingdom:

Provided that a person carrying on a business which consists of or includes the management of trusts, and acting as trustee of a trust in the course of that business, shall be treated in relation to that trust as not resident in the United Kingdom if the whole of the settled property consists of or derives from property provided by a person not at the time (or, in the case of a trust arising under a testamentary disposition, or on an intestacy or partial intestacy, at his death) domiciled, resident or ordinarily resident in the United Kingdom; and, in relation to disposals of assets after 5th April 1969, if in such a case the trustees or a majority of them are, or are treated in relation to that trust as, not resident in the United Kingdom, the general administration of the trust shall be treated as ordinarily carried on outside the United Kingdom.

For the purposes of this subsection, where part of the property comprised in a settlement is vested in one trustee or set of trustees and part in another (and, in particular, where settled land within the meaning of the Settled Land Act 1925 is vested in the tenant for life, and investments representing capital money are vested in the trustees of the settlement), they shall be treated as together constituting and, in so far as they act separately, as acting on behalf of a single body of trustees.

- (3) Subsection (2) above shall apply in relation to property forming part of the estate of a deceased person and to his personal representatives as it applies in relation to settled property and to trustees of a settlement, but personal representatives shall not be

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

chargeable to tax in respect of an acquisition and disposal by reference to the vesting of the property of the deceased in them.

- (4) A person acquiring assets as legatee shall not be chargeable under Case VII in respect of any acquisition and disposal by reference to that acquisition; nor, in the case of settled property, shall a person be chargeable under that Case in respect of any acquisition and disposal of a beneficial interest under the settlement.
- (5) Where a person entitled to an asset by way of security, or to the benefit of a charge or incumbrance on an asset, deals with the asset for the purpose of enforcing or giving effect to the security, charge or incumbrance, his dealings with it shall be treated for the purposes of Case VII as if they were done through him as nominee by the person entitled to it subject to the security, charge or incumbrance; and this subsection shall apply to the dealings of any person appointed to enforce or give effect to the security, charge or incumbrance as receiver, receiver and manager or judicial factor as it applies to the dealings of the person entitled as aforesaid.
- (6) For the purposes of subsection (1) above, 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 the disposal was effected by him and the other was effected by the bankrupt or debtor.
- (7) 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 subsection (6) above shall not apply after the death.

164 Computation of gains

- (1) Subject to the provisions of this Chapter, the gain accruing to a person from his acquisition and disposal of any asset shall be computed for the purposes of Case VII in the same way as it would fall to be computed for the purposes of Case I of Schedule D if the acquisition and disposal (together with anything done by him to or in relation to the asset in connection with the acquisition and disposal, or with a view to the disposal) had been an adventure in the nature of trade (but so that no dividend or interest in respect of which income tax has been borne by deduction or otherwise shall be brought into the computation as a receipt).
- (2) Subsection (1) above shall not be treated as applying for the purposes of Case VII any provision as to the period of computation of profits for the purposes of the said Case I, but the gain accruing on any disposal of an asset shall be computed in one sum as from the relevant acquisition (or first relevant acquisition).
- (3) No interest shall be allowable in computing the amount of a gain under Case VII.
- (4) Subject to the following subsections, the adventure by reference to which the gain on an acquisition and disposal is to be computed—
 - (a) shall not be treated as relating to any assets not included in the disposal, or to any interest not so included in assets which are so included, whether or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

not the assets or interest not so included were or was included in a relevant acquisition of the assets disposed of,

- (b) shall not be treated as relating to assets included in the disposal which either are not chargeable assets or were not included in a relevant acquisition, and
- (c) subject to paragraph (b) above shall be treated as relating—
 - (i) to all assets included in the same disposal, whether or not included in the same acquisition, and
 - (ii) to all relevant acquisitions of those assets, and
 - (iii) to the whole interest included in the disposal in any assets to which the adventure relates, whether or not the whole interest was included in any relevant acquisition;

and all necessary apportionments shall be made accordingly of the consideration for any acquisition or disposal, or of any receipts or expenditure, including in particular, in the case of land, apportionments between the interest disposed of and an interest retained of receipts and expenditure in connection with the land.

- (5) If, in the case of any asset, the interest to which the adventure relates does not derive wholly from one or more relevant acquisitions, then the gain shall be computed as if such part of that interest as derives from any other acquisition had been first appropriated to the adventure immediately before the disposal.
- (6) If, in the case of land, there is included in the disposal, besides the land to which the adventure relates, any adjoining or neighbouring land, being chargeable assets and not being land acquired as legatee, so much (if any) of the consideration for the disposal as represents an enhancement due to a relevant acquisition of the first-mentioned land in the value of the adjoining or neighbouring land shall, on the apportionment of the consideration, be apportioned to the first-mentioned land.
- (7) If, in the case of land, the disposal is subject to an interest created by any such letting of the land as is excepted from Case VII by section 166(2) below, and the letting was made by the person disposing of the land, and made by him since a relevant acquisition, the adventure shall be treated as extending to that letting to the same extent as if the interest thereby created had been included in the disposal.
- (8) An asset shall be treated as having been acquired free of any interest or right by way of security subsisting at the time of any relevant acquisition of it, and as being disposed of free of any such interest or right subsisting at the time of the disposal.
- (9) For the purposes of this section—
 - (a) " relevant acquisition " means, in relation to any disposal of an asset, an acquisition which, with that disposal, amounts to an acquisition and disposal within the meaning of this Chapter, except that it does not include an acquisition by reference to which tax is not chargeable, nor an acquisition from which no interest included in the disposal derives, and
 - (b) an interest included in a disposal shall be treated as deriving from an acquisition if, without that acquisition, the whole interest could not have been so included, but so that the part of that interest which does, and the part which does not, derive from relevant acquisitions shall be determined as if any interest of temporary duration subsisting at the time of the first relevant acquisition (other than an interest of such a duration as to expire before the time of the disposal) had been of the same duration at the time of the disposal.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

165 Exemption for chattels sold for £1,000 or less, and marginal relief

- (1) There shall be exempt from tax chargeable under Case VII a gain accruing from the acquisition and disposal of an asset which is tangible movable property if the amount or value of the consideration for the disposal does not exceed £1,000 ; and the amount of income tax (including surtax) chargeable under that Case in respect of a gain accruing from the acquisition and disposal of any such asset for a consideration exceeding £1,000 shall not exceed half the difference between that consideration and £1,000.

Subject to section 529 of this Act, the amount of the gain on which income tax is so chargeable shall be deemed for the purposes of this subsection to be the highest part of the income of the person charged for the year of assessment in question.

- (2) Subsection (1) above shall not affect subsection (4) of section 160 of this Act (Case VII losses), but, for the purposes of the said subsection (4), the consideration for the disposal of any asset which is tangible movable property shall, if less than £1,000 be deemed to be £1,000, and losses allowable under that subsection shall be restricted accordingly.
- (3) If two or more assets which have formed part of a set of articles of any description all owned at one time by one person are disposed of by that person, whether on the same or different occasions—
- (a) to the same person, or
 - (b) to persons who are acting in concert, or are connected persons within the terms of section 533 of this Act,

those assets shall be treated for the purposes of subsections (1) and (2) above as a single asset, but with any necessary apportionments of the reductions in tax, and in allowable losses, under those subsections.

- (4) In applying subsections (1) and (2) above in a case where the disposal is of a right or interest in or over tangible movable property—
- (a) in the first instance, those subsections shall be applied in relation to the asset as a whole, taking the consideration as including the market value of what remains undisposed of, in addition to the actual consideration,
 - (b) where the sum of the actual consideration and that market value exceeds £1,000, the limitation on the amount of income tax (including surtax) in subsection (1) shall be to half the difference between that sum and £1,000 multiplied by the fraction equal to the actual consideration divided by the said sum, and
 - (c) where that sum is less than £1,000, any loss shall be restricted under subsection (2) by deeming the actual consideration to be the actual consideration plus the said fraction of the difference between the said sum and £1,000.
- (5) Subsections (1) and (2) above shall not apply—
- (a) in relation to a disposal of commodities of any description by a person dealing on a terminal market, or dealing with or through a person ordinarily engaged in dealing on a terminal market, or
 - (b) in relation to a disposal of currency of any description.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

166 Miscellaneous exemptions and reliefs

- (1) Where an individual disposes by way of gift of an asset the market value of which at the time of the gift does not exceed £100, any gains accruing to the donor on the disposal shall be exempt from tax chargeable under Case VII, but this subsection, taken together with section 27(2) of the Finance Act 1965 (which confers a similar exemption for the purposes of capital gains tax), shall not apply to gifts made by the same individual in the same year of assessment the total market value of which exceeds £100, taking the market value of any gift at the time of the gift.
- (2) Except as provided by section 164(7) above, a person disposing of land by letting it for a term of less than twenty-one years shall not be chargeable under Case VII in respect of any acquisition and disposal by reference to that disposal, unless the letting is accompanied by another letting, or agreement for another letting, such that the combined terms amount to twenty-one years or over, or by an agreement to dispose of the land otherwise than by letting it.
- (3) If a claim is made under subsection (1) or (2) of section 33 of the Finance Act 1965 (capital gains tax relief in connection with replacement of business assets)—
 - (a) that section shall apply as if references in those subsections to the purposes of Part III of that Act included references to the purposes of this Chapter, and
 - (b) tax shall not be chargeable under Case VII on a gain accruing to the claimant from the acquisition and disposal of, or of the interest in, the new assets unless the period between the date when the claimant acquired the old assets, or the interest in the old assets, and the date when he disposed of the new assets, or the interest in the new assets, is twelve months or less.
- (4) This Chapter has effect subject to the provisions of paragraph 15 of Schedule 19 to the Finance Act 1969 (postponement of charge in respect of business assets where business transferred to company as going concern).
- (5) A gain shall be exempt from tax chargeable under Case VII if accruing from the acquisition and disposal by any person of a decoration awarded for valour or gallant conduct which he acquired otherwise than for consideration in money or money's worth.

167 Interpretation, and other supplementary provisions

- (1) For the purposes of this Chapter—
 - " control " has the meaning given by section 534 of this Act,
 - " 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,
 - " legatee " includes any person taking under a testamentary disposition, or on an intestacy or partial intestacy, whether he takes beneficially or as trustee, and—
 - (a) a donatio mortis causa shall be treated as a testamentary disposition, and shall not be treated as a gift, and
 - (b) for the purposes of this definition and of any reference to a person acquiring an asset " as legatee ", property taken under a testamentary disposition or an intestacy or partial intestacy includes, in the case of a death occurring after 5th April 1969, any asset appropriated by the personal representatives in or towards satisfaction of a pecuniary

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

legacy or any other interest or share in the property devolving under the disposition or intestacy,

" market value ", in relation to any property, means the price which that property might reasonably be expected to fetch on a sale in the open market,

" personal representatives " has the meaning given by section 432(4) of this Act,

" settled property " means, subject to subsection (3) below, any property held in trust other than property to which section 163(1) of this Act applies,

" shares " includes stock, and shares or debentures comprised in any letter of allotment or similar instrument shall be treated as issued unless the right to the shares or debentures thereby conferred remains provisional until accepted and there has been no acceptance, and

" wasting asset " means—

(a) plant and machinery, and

(b) any other asset with a predictable life not exceeding fifty years, " life ", for this purpose, meaning useful life having regard to the purpose for which the asset was acquired or provided by the person making the disposal, and the question what is the predictable life of an asset, so far as not immediately determined by the nature of the asset, being determined in relation to any disposal thereof by reference to the facts as they were known or ascertainable at the time when the asset was acquired or provided by the person making the disposal;

and references in this Chapter to any asset held by a person as trustee for another person absolutely entitled as against the trustee are references to a case where that other person has the exclusive right, subject only to satisfying any outstanding charge, lien or other right of the trustees to resort to the asset for payment of duty, taxes, costs or other outgoings, to direct how that asset shall be dealt with.

- (2) Where two or more persons carry on a business in partnership, gains accruing to them on the disposal of any partnership assets shall, in Scotland as well as elsewhere in the United Kingdom, be assessed and charged on them under Case VII separately, and any partnership dealings shall be treated as dealings by the partners and not by the firm as such.
- (3) The provisions of this Chapter shall apply in relation to any unit trust scheme (as denned in section 26(1) of the Prevention of Fraud (Investments) Act 1958) as if the trustees were a company, and as if the rights of the unit holders were shares in the company; but this subsection shall not be taken as excluding from the charge under Case VII (by reason of its extending to income tax only) any unit trust scheme which is not an authorised unit trust as defined in section 358 of this Act.
- (4) Where it appears to the Board that a person is or may be chargeable to tax under Case VII in respect of his acquisition and disposal of assets, they may, by notice in writing served on any person, require him within such time not less than twenty-eight days as may be specified in the notice—
 - (a) to state whether he has acted on behalf of the first mentioned person in connection with any acquisition or disposal of assets by that person, and
 - (b) if so, to furnish information in his possession with respect to the acquisition or disposal, being information as to—
 - (i) the assets comprised in the acquisition or disposal, and the consideration for the acquisition or disposal, and

Status: *This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

- (ii) the date and manner of the acquisition or disposal, including any condition to which it was subject and the satisfaction or otherwise of any such condition.
- (5) Where any question arises under Case VII as to a person's residence, ordinary residence or domicile, it shall be referred to and determined by the Board; but any person who is aggrieved by their decision on the question may, by notice in writing to that effect given to them within three months from the date on which notice of the decision is given to him, make an application to have the question heard and determined by the Special Commissioners, and where an application is so made, the Special Commissioners shall hear and determine the question in like manner as an appeal.
- (6) The rules contained in Schedule 7 to this Act shall have effect with respect to the operation of Case VII in relation to the matters there dealt with, and with respect to matters arising out of the charge to tax under this Chapter, and the preceding provisions of this Chapter shall have effect subject to those rules.