

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1974, SCHEDULE 3. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 3

Section 38

PROVISIONS SUPPLEMENTARY TO SECTION 38

Textual Amendments

- F1** *Sch. 3* Repealed by Finance Act 1985 (c. 54, SIF 63:1), s. 98(6) and Sch. 27 Part X in relation to disposals of interests in land taking place on or after 19 March Finance Act 1985 (c. 54, SIF 63:1), but without affecting the construction of 1979 (C) Sch. 5 para. 9(5).

PART I

DEFINITIONS OF CURRENT USE VALUE, MATERIAL DEVELOPMENT, ETC.

Definition of current use value ^{F2}

Textual Amendments

- F2** See also Development Land Tax Act 1976 (c. 24), s. 36(5)—Development Land Tax—regarding disposals on and after 1 August 1976 by S.I. 1976 No. 1148 (C.33). Development Land Tax Act 1976 (c. 24), repealed by Finance Act 1985 (c. 54, SIF 63:1), ss. 93, 98(6) and Sch. 27 Part X.

- 1 (1) *For the purpose of the principal section and this Schedule the current use value of an interest in land shall be ascertained in accordance with this Part of this Schedule; and in this Part of this Schedule the time as at which current use value is to be ascertained is referred to as “the relevant time”.*
- (2) *Subject to the following provisions of this Part of this Schedule, the current use value of an interest in land at the relevant time is the market value of that interest at that time calculated on the assumption that it was at that time, and would continue to be, unlawful to carry out any material development of the land other than any material development thereof which, being authorised by planning permission in force at that time, was begun before that time* ^{F3}.
- (3) *In this paragraph “planning permission” has the same meaning as in the* ^{M1}*Town and Country Planning Act 1971, or, in Scotland, the* ^{M2}*Town and Country Planning (Scotland) Act 1972, or, in Northern Ireland, the* ^{M3}*Planning (Northern Ireland) Order 1972; and in determining for the purposes of this paragraph what material development of any land was authorised by planning permission at a time when there was in force in respect of the land planning permission granted on an outline application (that is to say, an application for planning permission subject to subsequent approval on any matters), any such development of the land which at that time—*

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- (a) *was authorised by that permission without any requirement as to subsequent approval; or*
- (b) *not being so authorised, had been approved in the manner applicable to that planning permission,*
- but no other material development, shall for the purposes be taken to have been authorised by that permission at that time.*

Textual Amendments

- F3** See [Capital Gains Tax Act 1979 \(c. 14, SIF 63:1\)](#) Sch.5 para. 9(5)—*current use value to be computed for purposes of that para. in accordance with Sch.3 Part I, but excluding words “other than” onwards in Sch.3 para.1(2) in relation to material development begun before 18 December 1973.*

Marginal Citations

- M1** [1971 c.78.](#)
M2 [1972 c.52.](#)
M3 [S.I.1972/1634.](#)

Current use value—part disposals

- 2 (1) *Subject to sub-paragraphs (5) to (7) below, this paragraph shall apply as regards the current use value of an interest in land which has been disposed of by way of a part disposal of an asset (in this paragraph referred to as “the relevant asset”) consisting of an interest in land.*
- (2) *The current use value at the relevant time of the interest disposed of shall be the relevant fraction of the current use value of the relevant asset at that time, calculated on the same assumptions as to the lawfulness or otherwise of any material development as fall to be made under this Schedule in calculating the current use value at that time of the interest disposed of.*
- (3) *For the purposes of the preceding sub-paragraph “the relevant fraction” means that fraction of the sums mentioned in the following sub-paragraph which under [subsection (2) of section 35 of the Capital Gains Tax Act 1979^{F4}] is, or would but for [subsection (4) of that section^{F4}] be, allowable as a deduction in computing under [Chapter II of Part II of that Act^{F4}] the amount of the gain accruing on the part disposal.*
- (4) *The sums referred to in the preceding sub-paragraph are the sums which, if the entire relevant asset had been disposed of at the time of the part disposal, would be allowable by virtue of [section 32 (1)(a) and (b) of the Capital Gains Tax Act 1979^{F4}] as a deduction in computing under [Chapter II of Part II of that Act^{F4}] the gain accruing on that disposal of the relevant asset.*
- (5) *Sub-paragraphs (2) to (4) above shall not apply—*
- (a) *in the case of a disposal of an interest in land by way of a part disposal if, on making the disposal, the person doing so no longer has any interest in the land which is subject to that interest; or*
- (b) *in a case to which the following provisions of this paragraph apply.*
- (6) *In computing under this Chapter any gain accruing to a person on a part disposal of a lease which is a wasting asset by way of the grant of a sub-lease for a premium,*

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the current use value of the lease at the time of its acquisition by the person making the disposal shall be the relevant fraction of what its current use value at that time would be apart from sub-paragraphs (2) to (4) above.

- (7) *For the purposes of the preceding sub-paragraphs “the relevant fraction” means that fraction of the expenditure attributable to the lease under [section 32(1)(a) and (b) of the Capital Gains Tax Act 1979 ^{F4}] which under paragraph 4 of [Schedule 3 ^{F4} to that Act (sub-leases out of short leases) falls to be apportioned to what is disposed of.*

Textual Amendments

F4 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

- 3 *In computing under this Chapter any gain accruing to a person on a part disposal of an interest in land resulting under [subsection (1) of section 20 of the Capital Gains Tax Act 1979 ^{F5}] from the receipt as mentioned in paragraph (a), (c) or (d) of that subsection of a capital sum, the current use value at the relevant time of the interest out of which the part disposal was made shall be taken to be what it would have been at that time if the circumstances which caused the capital sum to be received had not arisen.*

Textual Amendments

F5 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Current use value—leases and reversions

- 4 (1) *The current use value of an interest in land which is either—*
(a) *a freehold interest which is subject to a lease or an agreement for a lease; or*
(b) *an interest under a lease or agreement for a lease,*
shall be ascertained without regard to any premium required under the lease or agreement for a lease or any sublease, or otherwise under the terms subject to which the lease or sublease was or is to be granted, but with regard to all other rights under the lease or prospective lease (and, for the current use value of an interest under a lease subject to a sublease, under the sublease).
- (2) *If under the preceding sub-paragraph an interest under a lease or agreement for a lease would have a negative value, the current use value of the interest shall be nil.*
- (3) *If a lease is granted out of any interest in land after 17 th December 1973, then, in computing under this Chapter any gain accruing on any disposal of the reversion on the lease made while the lease subsists, the current use value of the reversion at any time after the grant of the lease shall not exceed what would have been at that time the current use value of the interest in the land of the person then owning the reversion if that interest had not been subject to the lease.*
- (4) *In the application of this paragraph to Scotland, “freehold” means the estate or interest of the proprietor of the dominium utile or, in the case of property other than feudal property, of the owner; and “reversion” means the interest of the landlord in property subject to a lease.*

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- 5 (1) *In computing under this Chapter any gain accruing to a person on a disposal of a lease which is a wasting asset, the current use value of the lease at the time of its acquisition by the person making the disposal shall be the relevant fraction of what its current use value at that time would be apart from this paragraph.*
- (2) *For the purposes of the preceding sub-paragraph “the relevant fraction” means the fraction of which the numerator is equal to so much of the expenditure attributable to the lease under [section 32(1)(a) and (b) of the Capital Gains Tax Act 1979 ^{F6}] as is not under paragraph 1 of [Schedule 3 ^{F6}] to that Act excluded therefrom for the purposes of the computation under [Chapter II of Part II of that Act ^{F7}] of the gain accruing on the disposal, and the denominator is equal to the whole of the expenditure which would be so attributable to the lease for those purposes apart from the said paragraph 1.*

Textual Amendments

- F6** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.
F7 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Definition of material development

- 6 *In this Schedule, subject to the following paragraph, “material development”, in relation to any land, means the making of any change in the state, nature or use of the land ^{F8}.*

Textual Amendments

- F8** See—Development Land Tax Act 1976 (c. 24), s. 36(2)—Development Land Tax—Sch. 3 Part I applied for purposes of that section. Development Land Tax Act 1976 (c. 24) abolished from 19 March Finance Act 1985 (c. 54, SIF 63:1), by Finance Act 1985 (c. 54, SIF 63:1), ss. 93, 98(6) and Sch. 27 Part X. Capital Gains Tax Act 1979 (c. 14, SIF 63:1) Sch. 5 para. 9(5)—definition applied.

- 7 (1) *The doing of any of the following things in the case of any land shall not be taken for the purposes of this Schedule to involve material development of the land, that is to say—*
- (a) *the carrying out of works for the maintenance, improvement, enlargement or other alteration of any building, so long as the cubic content of the original building is not exceeded by more than one-tenth;*
 - (b) *the carrying out of works for the rebuilding, as often as occasion may require, of any building which was in existence at the relevant time, or of any building which was in existence in the period of ten years immediately preceding the day on which that time falls but was destroyed or demolished before the relevant time, so long as (in either case) the cubic content of the original building is not exceeded by more than one-tenth;*
 - (c) *the use of any land for the purposes of agriculture or forestry, the use for any of those purposes of any building occupied together with land so used, and the carrying out on any land so used of any building or other operations required for the purposes of that use;*
 - (d) *the carrying out of operations on land for, or the use of land for, the display of an advertisement, announcement or direction of any kind;*

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- (e) *the carrying out of operations for, or the use of the land for, car parking, provided that such use shall not exceed three years;*
 - (f) *in the case of a building or other land which at the relevant time was used for a purpose falling within any class specified in paragraph 8 below or which, being unoccupied at that time, was last used for any such purpose, the use of that building or land for any other purpose falling within the same class;*
 - (g) *in the case of a building or other land which at the relevant time was in the occupation of a person by whom it was used as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content of the part of the building used for that purpose at the relevant time or, as the case may be, one-tenth of the area of the land so used at that time;*
 - (h) *in the case of land which at the relevant time was being temporarily used for a purpose other than the purpose for which it was normally used, the resumption of the use of the land for the last-mentioned purpose;*
 - (i) *in the case of land which was unoccupied at the relevant time, the use of the land for the purpose for which it was last used before that time.*
- (2) *In determining for the purposes of sub-paragraph (1)(a) or (b) above whether or not the cubic content of the original building has been exceeded by more than one-tenth, the cubic content of the building after the carrying out of the works in question shall be treated as reduced by the amount (if any) by which so much of that cubic content as is attributable to one or more of the matters mentioned in the following sub-paragraph exceeds so much of the cubic content of the original building as was attributable to one or more of the matters so mentioned.*
- (3) *The matters referred to in the preceding sub-paragraph are the following, that is to say—*
- (a) *means of escape in case of fire;*
 - (b) *car-parking or garage space;*
 - (c) *accommodation for plant providing heating, air-conditioning or similar facilities.*
- 8 *The classes of purposes mentioned in paragraph 7(1)(f) above are the following—*
- Class A—Use as a dwelling-house or for the purpose of any activities which are wholly or mainly carried on otherwise than for profit, except use for a purpose falling within Class B, C or E.*
- Class B—Use as an office or retail shop.*
- Class C—Use as a hotel, boarding-house or guest-house, or as premises licensed for the sale of intoxicating liquors for consumption on the premises.*
- Class D—Use for the purpose of any activities wholly or mainly carried on for profit, except—*
- (a) *use as a dwelling-house or for the purposes of agriculture or forestry;*
and
 - (b) *use for a purpose falling within Class B, C or E.*
- Class E—Use for any of the following purposes, namely—*
- (a) *the carrying on of any process for or incidental to any of the following purposes, namely—*
 - (i) *the making of any article or of any part of any article, or the production of any substance;*

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- (ii) *the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolishing of any article; or*
- (iii) *without prejudice to (i) or (ii) above, the getting, dressing or treatment of minerals,*

being a process carried on in the course of a trade or business other than agriculture or forestry, but excluding any process carried on at a dwelling-house or retail shop;

- (b) *storage purposes (whether or not involving use as a warehouse or repository) other than storage purposes ancillary to a purpose falling within Class B or C.*

Date when material development is begun

- 9 (1) *For the purposes of this Schedule material development shall be taken to be begun on the earliest date on which any specified operation comprised in the material development is begun.*
- (2) *In this paragraph “specified operation” means any of the following, that is to say—*
- (a) *any work of construction in the course of the erection of a building;*
 - (b) *the digging of a trench which is to contain the foundations, or part of the foundations, of a building;*
 - (c) *the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in (b) above;*
 - (d) *any operation in the course of laying out or constructing a road or part of a road;*
 - (e) *any change in the use of any land^{F9}.*

Textual Amendments

F9 See—[Development Land Tax Act 1976 \(c. 24\), ss. 36\(2\) and 38](#)—Development Land Tax—Sch.3 Part I applied for the purposes of those sections. [Development Land Tax Act 1976 \(c. 24\)](#), repealed by [Finance Act 1985 \(c. 54, SIF 63:1\), ss. 93, 98\(6\)](#) and Sch.27 Part X. [Capital Gains Tax Act 1979 \(c. 14, SIF 63:1\)](#) Sch.6 para. 9—Sch.3 para. 9 applied for purposes of that para.

Interpretation

- 10 (1) *In this Part of this Schedule, unless the context otherwise requires—*
- “agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins or fur; or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;*
 - “article” means an article of any description;*
 - “building” includes part of a building, and references to a building may include references to land occupied therewith and used for the same purposes;*
 - “forestry” includes afforestation;*

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“minerals” includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working;

“retail shop” includes any premises of a similar character where retail trade or business (including repair work) is carried on;

“substance” means any natural or artificial substance or material, whether in solid or liquid form or in the form of a gas or vapour.

- (2) *Any reference in this Part of this Schedule to the cubic content of a building is a reference to that content as ascertained by external measurement.*
- (3) *For the purposes of paragraph 7(1)(a) and (b) of this Schedule where two or more buildings are included in a single development the whole of that development may be regarded as a single building, and where two or more buildings result from the redevelopment of a single building the new buildings may together be regarded as a single building.*

For the purposes of this sub-paragraph two or more buildings shall not be treated as included in a single development unless they are or were comprised in the same curtilage.

PART II

OTHER PROVISIONS SUPPLEMENTARY TO SECTION 38

Computation of development gain in respect of disposal of interest in land after material development has been carried out

- 11 (1) *This paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if material development of the land has been carried out after 17 th December 1973 [and^{F10}] since the person making the disposal acquired the interest [but before the appointed day, within the meaning of the Development Land Tax Act 1976^{F10}].*
- (2) *Subsection (3) of the principal section shall apply in relation to the disposal as if paragraph (b) were omitted, and as if for the words “whichever is the least” there were substituted the words “whichever is the smaller”.*
- (3) *For the purpose of computing the amount given by subsection (3)(c) of the principal section, the amount by which the current use value of the interest in land at the time of the disposal exceeds the current use value of the interest at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6 th April 1965, its current use value at that date shall be taken to be equal to the sum of the amounts mentioned in the following sub-paragraph (or, if both those amounts are nil, to be nil).*
- (4) *The amounts referred to in the preceding sub-paragraph are the following, that is to say—*
- (a) *the amount (if any) by which the current use value of the interest immediately before the date on which the material development mentioned in sub-paragraph (1) above was begun exceeds the current use value of the interest at the time of its acquisition by the person making the disposal or on 6 th April 1965, as the case may be; and*

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- (b) *the amount (if any) by which the current use value of the interest at the time of the disposal exceeds the aggregate of the amounts mentioned in the following sub-paragraph.*
- (5) *The amounts referred to in sub-paragraph (4)(b) above are the following, that is to say—*
- (a) *the current use value of the interest immediately after the date on which the material development mentioned in sub-paragraph (1) above was begun, calculated on the assumption that it was lawful for that development to be carried out; and*
- (b) *the amount of any expenditure attributable to that development which is allowable under [section 32(1)(b) of the Capital Gains Tax Act 1979 ^{F11}] as a deduction from the consideration for the disposal in computing the chargeable gain accruing thereon.*
- (6) *Where material development of the land in question has been carried out on two or more different occasions after 17 th December 1973 [and^{F12}] since the person making the disposal acquired the interets [but before the appointed day, within the meaning of the Development Land Tax Act 1976 ^{F12}], then for the purposes of this paragraph—*
- (a) *there shall be calculated for the first of those occasions the amount mentioned in sub-paragraph (4)(a) above (the reference there to the material development mentioned in sub-paragraph (1) above being for this purpose read as a reference to the material development carried out on that occasion);*
- (b) *there shall be calculated for each of those occasions other than the first the amount (if any) by which the current use value of the interest immediately before the date on which the material development carried out on that occasion was begun exceeds the aggregate of the amounts mentioned in sub-paragraph (5) above (the references there to the material development mentioned in sub-paragraph (1) above being for this purpose read as references to the material development carried out on the occasion preceding the one for which the calculation is being made); and*
- (c) *there shall be calculated the amount (if any) by which the current use value of the interest at the time of the disposal exceeds the aggregate of the amounts mentioned in sub-paragraph (5) above (the references there to the material development mentioned in sub-paragraph (1) above being for this purpose read as references to the material development carried out on the last of those occasions);*

and sub-paragraph (3) above shall apply as if for the words from “the sum of the amounts mentioned in the following sub-paragraph” to the end of the paragraph there were substituted the words “the sum of the amounts calculated under sub-paragraph (6)(a) to (c) below (or, if those amounts are each nil, to be nil)”.

Textual Amendments

F10 *Development Land Tax Act 1976 (c. 24), s. 35(3)—see Development Land Tax. By virtue of S.I. 1976 No.1148 (C.33) the Treasury appointed 1 August 1976 to be the appointed day. Development Land Tax Act 1976 (c. 24), repealed by Finance Act 1985 (c. 54, SIF 63:1), ss. 93, 98(6) and Sch.27 Part X.*

F11 *Capital Gains Tax Act 1979 (c. 14, SIF 63:1) s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.*

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F12 Development Land Tax Act 1976 (c. 24), s. 35(3)—see Development Land Tax. By virtue of S.I. 1976 No.1148 (C.33) the Treasury appointed 1 August 1976 to be the appointed day. Development Land Tax Act 1976 (c. 24), repealed by Finance Act 1985 (c. 54, SIF 63:1), ss. 93, 98(6) and Sch.27 Part X.

*Computation of development gain in respect of disposal
of interest in land reflecting expenditure on enhancement*

- 12 (1) *This paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if any expenditure which is or, but for paragraph 1 of [Schedule 3 to the Capital Gains Tax Act 1979 ^{F13}], would be allowable under [section 32(1)(b) of that Act ^{F13}] as a deduction from the consideration for the disposal in computing the chargeable gain accruing thereon has been incurred since the person making the disposal acquired the interest, not being expenditure attributable to material development of the land carried out as mentioned in paragraph 11(1) of this Schedule (that is, carried out after 17 th December 1973 [and ^{F14}] since the person making the disposal acquired the interest [but before the appointed day, within the meaning of the Development Land Tax Act 1976 ^{F14}]).*
- (2) *For the purpose of computing the amount given by subsection (3)(c) of the principal section the current use value of the interest in land at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6 th April 1965, its current use value at that date shall be taken to be equal to the sum of the amounts mentioned in the following sub-paragraph.*
- (3) *The amounts referred to in the preceding sub-paragraph are the following, that is to say—*
- (a) *the current use value of the interest at the time of its acquisition by the person making the disposal or on 6 th April 1965, as the case may be; and*
 - (b) *so much of the expenditure mentioned in sub-paragraph (1) above as is reflected in the current use value of the interest at the time of the disposal.*
- (4) *Where material development of the land has been carried out (whether on only one occasion or on two or more different occasions) after 17 th December 1973 [and ^{F15}] since the person making the disposal acquired the interest [but before the appointed day, within the meaning of the Development Land Tax Act 1976 ^{F15}], sub-paragraphs (2) and (3) above shall not apply, and paragraph 11 of this Schedule shall have effect subject to the following provisions of this paragraph.*
- (5) *Where any expenditure mentioned in sub-paragraph (1) above was incurred before the date on which the material development of the land carried out after 17 th December 1973 on the first or only occasion was begun, then in calculating under paragraph 11(4)(a) or 11(6)(a) of this Schedule the amount mentioned in the said paragraph 11(4)(a), the current use value of the interest at the time of its acquisition by the person making the disposal or on 6 th April 1965, as the case may be, shall be increased by so much of the expenditure so incurred as is reflected in the current use value of the interest immediately before the date on which the material development carried out on that occasion was begun.*
- (6) *Where any expenditure so mentioned was incurred on or after the date on which the material development of the land so carried out on the last or only occasion was begun, then in calculating under paragraph 11(5)(b) or 11(6)(c) of this Schedule the expenditure attributable to that material development which is allowable as mentioned in the said paragraph 11(5)(b) there shall be included in that expenditure*

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so much of the expenditure incurred as is reflected in the current use value of the interest at the time of the disposal.

- (7) *Where any expenditure so mentioned was incurred on or after the date on which the material development (“the preceding development”) so carried out on any but the last of two or more occasions was begun but before the date on which the material development (“the following development”) carried out on the next of those occasions was begun, then, in calculating under paragraph 11(6)(b) of this Schedule the expenditure attributable to the preceding development which is allowable as mentioned in paragraph 11(5)(b) of this Schedule, there shall be included in that expenditure so much of the expenditure so incurred as is reflected in the current use value of the interest immediately before the date on which the following development was begun.*

Textual Amendments

- F13** Capital Gains Tax Act 1979 (c. 14, SIF 63:1) , s. 157(2) and Sch. 7 para. 9 for 1979-80 *et seq.*
- F14** Development Land Tax Act 1976 (c. 24), s. 35(3)—Development Land Tax. By virtue of S.I. 1976 No. 1148 (C.33) the Treasury appointed 1 August 1976 to be the appointed day. Development Land Tax Act 1976 (c. 24), repealed by Finance Act 1985 (c. 54, SIF 63:1), ss. 93, 98(6) and Sch. 27 Part X.
- F15** Development Land Tax Act 1976 (c. 24), s. 35(3)—Development Land Tax. By virtue of S.I. 1976 No. 1148 (C.33) the Treasury appointed 1 August 1976 to be the appointed day. Development Land Tax Act 1976 (c. 24), repealed by Finance Act 1985 (c. 54, SIF 63:1), ss. 93, 98(6) and Sch. 27 Part X.

Provisions supplementary to paragraphs 11 and 12

- 13 (1) *Where paragraph 11 of this Schedule would, apart from this paragraph, apply in relation to a disposal of an interest in land because of any material development of the land carried out after 17 th December 1973 [and^{F16}] since the person making the disposal acquired the interest [but before the appointed day, within the meaning of the Development Land Tax Act 1976^{F16}], the said paragraph 11 shall not so apply if the amount by which the current use value of the interest immediately after the date on which that material development was begun, calculated on the assumption that it was lawful for that development to be carried out, exceeds the current use value of the interest immediately before that date—*
- (a) *is not greater than one-tenth of the current use value of the interest immediately before that date;*
- (b) *does not exceed £2,500.*
- (2) *Where material development of the land in question has been carried out on two or more different occasions after 17 th December 1973 [and^{F16}] since the person making the disposal acquired the interest [but before the appointed day, within the meaning of the Development Land Tax Act 1976^{F16}] then for the purposes of this paragraph there shall be calculated for each of those occasions the amount by which the current use value of the interest immediately after the date on which the material development carried out on that occasion was begun, calculated on the assumption that it was lawful for that development to be carried out, exceeds the current use value of the interest immediately before that date, and the preceding sub-paragraph shall not apply in relation to the disposal if the aggregate of the amounts so calculated exceeds £2,500.*

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- (3) *Where by virtue of the preceding provisions of this paragraph paragraph 11 of this Schedule does not apply in relation to a disposal of an interest in land even though material development of the land has been carried out as aforesaid, the material development in question shall be disregarded for the purposes of paragraph 12 of this Schedule.*

Textual Amendments

F16 *Development Land Tax Act 1976 (c. 24), s. 35(3)—Development Land Tax. By virtue of S.I. 1976 No. 1148 (C.33) the Treasury appointed 1 August 1976 to be the appointed day. Development Land Tax Act 1976 (c. 24), repealed by Finance Act 1985 (c. 54, SIF 63:1), ss. 93, 98(6) and Sch. 27 Part X.*

- 14 (1) *Subject to the following sub-paragraph, material development shall for the purposes of paragraphs 11 to 13 of this Schedule not be treated as carried out after a particular date if it was begun on or before that date.*
- (2) *If, in the case of any land—*
- (a) *material development thereof was begun on or before 17 th December 1973 but was not completed on or before that date; and*
- (b) *the development was on that date to any extent not authorised by planning permission then in force,*
- then, for the purposes of paragraphs 11 to 13 of this Schedule, so much of the development carried out after that date as was not so authorised on that date shall be treated as begun on the earliest date after 17 th December 1973 on which any specified operation comprised therein is begun, and shall accordingly be treated as material development of the land carried out after 17 th December 1973.*
- (3) *Sub-paragraph (3) of paragraph 1 of this Schedule shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 1; and in this paragraph “specified operation” has the same meaning as in paragraph 9 of this Schedule^{F17}.*

Textual Amendments

F17 *See Capital Gains Tax Act 1979 (c. 14, SIF 63:1) Sch. 5 para. 9(5)—Sch. 3 para. 14 applied for purposes of that para.*

Computation of amount given by subsection (3)(c) of principal section in certain cases within [paragraph 9(4) of Schedule 5 to the Capital Gains Tax Act 1979^{F18}]

Textual Amendments

F18 *Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.*

- 15 *Where a chargeable gain accrues to a person on a disposal of an interest in land to which the principal section applies, being a disposal in relation to which [paragraph 9 of Schedule 5 to the Capital Gains Tax Act 1979^{F19}] (sales of land in United Kingdom reflecting development value) applies, then, if the amount of the gain is by virtue of sub-paragraph (4) of that paragraph computed without regard to [the said Schedule 5^{F19}] (assets held on 6 th April 1965), this Chapter shall have effect in relation to that disposal as if in subsection (3)(c) of the principal section*

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and paragraphs 11 and 12 of this Schedule any reference to the current use value of the interest at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6 th April 1965, its current use value at that date referred only to its current use value at the time of its acquisition by him.

Textual Amendments

F19 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Computation of development gains in connection with replacements of business assets

- 16 (1) *Subject to the provisions of paragraph 2 of Schedule 4 to this Act, the development gain, if any, accruing in respect of a disposal of an interest in land to which the principal section applies shall, if the disposal is one in relation to which [sections 115 to 121 of the Capital Gains Tax Act 1979 ^{F20}] (replacement of business assets) [apply^{F20}], be computed as if any claim under [those sections^{F20}] as respects the whole or a part of the consideration for the disposal had not been made.*
- (2) *The preceding sub-paragraph shall not affect the subsequent operation of paragraph 4 of Schedule 8 to this Act in relation to such a claim.*

Textual Amendments

F20 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

- 17 *Where under [section 115(1)(b) or 116(1)(b) of the Capital Gains Tax Act 1979 ^{F21}] or paragraph 18(4) of this Schedule the person making a disposal of an interest in land to which the principal section applies would, apart from this paragraph, be treated for the purposes of [that Act^{F21}] as if the amount or value of the consideration for the acquisition of that interest were reduced or further reduced by some amount, the development gain, if any, accruing in respect of the disposal shall be computed as if the said [section 115(1)(b) or 116(1)(b) ^{F21}] or the said paragraph 18(4), as the case may be, did not apply to that consideration.*

Textual Amendments

F21 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Replacement of business assets

- 18 (1) *If the consideration which a person carrying on a trade obtains for the disposal of, or of his interest in, assets (in this paragraph referred to as “the old assets”) used, and used only, for the purposes of the trade throughout the period of ownership is wholly or partly applied by him in acquiring other assets, or an interest in other assets (in this paragraph referred to as “the new assets”) which on the acquisition are taken into use, and used only, for the purposes of the trade, and—*
- (a) *the old assets and new assets are within the classes of assets listed in subsection (6) of [section 118 (with section 119) of the Capital Gains Tax Act 1979 ^{F22}] (replacement of business assets) and the old assets consist of or include land in the United Kingdom; and*

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- (b) *some or all of the new assets are qualifying assets; and*
- (c) *development gains accrue to the person carrying on the trade in respect of the disposal; and*
- (d) *the amount of the consideration for the disposal applied as aforesaid is greater than the difference between the whole of that consideration and the amount of those development gains,*

then, if the person carrying on the trade makes a claim as respects those development gains, the provisions of sub-paragraphs (2) to (5) below shall apply.

- (2) *There shall be ascertained the following amounts, that is to say—*
 - (a) *the amount by which so much of the consideration for the disposal as has been applied as described in sub-paragraph (1) above exceeds the difference mentioned in sub-paragraph (1)(d) above; and*
 - (b) *the amount of the consideration for the disposal which has been so applied in acquiring qualifying assets;*

and in the following provisions of this paragraph “the material amount” means whichever of those amounts is the smaller (or, if they are equal, the amount which is equal to each of them).

- (3) *The income tax or corporation tax to which the person carrying on the trade is chargeable for the chargeable period in which the disposal was made shall be reduced by an amount equal to whichever of the following amounts is the smallest, that is to say—*
 - (a) *30 per cent. of what is, under sub-paragraph (5) below, the appropriate amount;*
 - (b) *30 per cent. of the amount, if any, by which the development gains accruing to him in that chargeable period exceed the development losses, if any, accruing to him in that period (so that if the amount under this head is nil, no reduction will fall to be made under this sub-paragraph);*
 - (c) *the total amount of the income tax for which he is liable for that chargeable period or, in the case of a company, the total amount of the corporation tax for which the company is liable for that chargeable period after setting against that liability the amount of any advance corporation tax falling to be set against it under section 85 of the Finance Act 1972, but before any set-off under subsection (5) of section 240 of the Taxes Act (income tax on distributions etc. received by U.K. company).*

For the purposes of paragraph (b) of this sub-paragraph a man and his wife living with him shall be treated as one person if the result of so treating them is to increase the amount given by that paragraph.

- (4) *Where a reduction falls to be made under the preceding sub-paragraph, the person carrying on the trade shall be treated for the purposes of [the Capital Gains Tax Act 1979 ^{F23}] as if the consideration for the acquisition of, or of the interest in, such of the new assets as are qualifying assets were reduced (or further reduced) by what is, under sub-paragraph (5) below, the appropriate amount; but this sub-paragraph shall not affect the treatment for those purposes of the other party to the transaction involving the old assets or of the other party to the transaction involving the new assets^{F24}.*
- (5) *For the purposes of sub-paragraphs (3)(a) and (4) above—*

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- (a) *if the material amount is equal to or greater than one-half of the development gains accruing in respect of the disposal, the appropriate amount is the full amount of the development gains so accruing;*
- (b) *if the material amount is less than one-half of the development gains so accruing, the appropriate amount is an amount equal to twice the material amount.*

“(6) The following provisions of the Capital Gains Tax Act 1979 shall, with any necessary modifications, apply for the purposes of this paragraph as they apply for the purposes of section 115 of that Act, namely—

- (a) *subsections (3) to (8) of the said section 115,*
- (b) *section 119,*
- (c) *section 121.]”*

(7) *Without prejudice to the provisions of [section 43(4) of the Capital Gains Tax Act 1979 ^{F25}] where consideration is given—*

- (a) *for the acquisition or disposal of assets some or part of which are assets in relation to which a claim under this paragraph applies and some or part of which are not; or*
- (b) *for the acquisition or disposal of assets some or part of which are, in relation to a claim under this paragraph, qualifying assets and some or part of which are not,*

the consideration shall be apportioned in such manner as is just and reasonable.

(8) *For the purposes of this paragraph assets are, in relation to a trade, qualifying assets if they are within the following classes of assets, that is to say the classes listed in [section 118 of the Capital Gains Tax Act 1979 ^{F25}], excluding assets within [paragraph 2 ^{F25}] of head A in class 1 other than land constituting the site of any asset within [paragraph 1 ^{F25}] of that head (including in the site any land in the immediate vicinity of the asset which is occupied for purposes ancillary to the occupation and use of the asset).*

Textual Amendments

F22 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

F23 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 paras. 3 and 8 for 1979-80 et seq.

F24 See 1975 (No.2) s. 55(5)—para. 18(4) excluded in computing chargeable gain on agricultural property.

F25 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 paras. 3, 8 and 9 for 1979-80 et seq.

Replacement of business assets: depreciating assets

[19 (1) Paragraph 18 above shall have effect subject to the provisions of this paragraph, in which—

- (a) *the “tax reduction” means the reduction in the income tax or corporation tax to which the person carrying on the trade is chargeable which is made under sub-paragraph (3) of the said paragraph 18 in connection with a disposal of an asset (called “asset No. 1”);*
- (b) *the “expenditure reduction” means the related amount by which under sub-paragraph (4) of that paragraph, and apart from the provisions of this*

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*paragraph, the expenditure allowable in respect of another asset (called
“asset No. 2”) is reduced;*

(c) *any reference to an expenditure reduction of any amount being carried
forward to any asset is a reference to a reduction of that amount in
expenditure allowable in respect of that asset.*

(2) *If asset No. 2 is a depreciating asset, the expenditure reduction shall not be carried
forward, but—*

- (a) *when the claimant disposes of asset No. 2, or*
- (b) *when he ceases to use asset No. 2 for the purposes of a trade carried on by
him, or*
- (c) *on the expiration of a period of ten years beginning with the acquisition of
asset No. 2,*

*whichever event comes first, an amount equal to the tax reduction may be assessed
to tax and recovered accordingly.*

*Any assessment to income tax or corporation tax under this paragraph shall be made
under Case VI of Schedule D.*

(3) *If, in the circumstances specified in sub-paragraph (4) below, the claimant acquires
an asset (called “asset No. 3”) which is not a depreciating asset, and so claims
under paragraph 18 above—*

- (a) *the expenditure reduction shall be carried forward to asset No. 3, and*
- (b) *the claim which applies to asset No. 2 shall be treated as withdrawn (so that
sub-paragraph (2) above does not apply).*

(4) *The circumstances are that asset No. 3 is acquired not later than the occurrence
of whichever of the events mentioned in sub-paragraph (2) above comes first and,
assuming—*

- (a) *that the consideration for asset No. 1 was applied in acquiring asset No. 3,
and*
- (b) *that the time between the disposal of asset No. 1 and the acquisition of asset
No. 3 was within the time limited by section 115(3) of the Capital Gains Tax
Act 1979 as applied by paragraph 18(6) above,*

*the whole amount of the expenditure reduction could be carried forward from asset
No. 1 to asset No. 3; and the claim under sub-paragraph (3) above shall be accepted
as if those assumptions were true.*

(5) *For the purposes of this paragraph an asset is a depreciating asset at any time if—*

- (a) *at that time it is a wasting asset as defined in section 37(1) of the Capital
Gains Tax Act 1979, or*
- (b) *within the period of ten years beginning at that time it will become a wasting
asset (so defined).*

(6) *This paragraph shall be construed as one with paragraph 18 above^{F26}.]*

Textual Amendments

F26 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 paras. 4 and 9 for 1979-80 et seq.

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Company amalgamations

- 20 (1) *Where a company issues shares or debentures to a person in exchange for shares in or debentures of another company in circumstances such that [section 85 of the Capital Gains Tax Act 1979 ^{F27}] (company amalgamations) applies, then, if section 41(1) of this Act applies to the disposal by him to the issuing company of the shares in or debentures of the other company, the amount of any development gain accruing to him in respect of that disposal shall be computed as if the said [section 85 ^{F27}] did not apply in relation to the exchange.*
- (2) *Where, in the case of a disposal of shares in or debentures of a company made in the circumstances mentioned in the preceding sub-paragraph, the amount of any development gain accruing in respect of that disposal falls by virtue of that sub-paragraph to be computed as if the said [section 85 ^{F27}] did not apply in relation to the exchange, the provisions of paragraph 14 of Schedule 9 to this Act (postponement of payment of tax), excluding sub-paragraphs (2) and (6), shall, with any necessary modifications, apply in the case of that disposal as they apply in the case of a disposal of an interest in land which is deemed to have been made as mentioned in sub-paragraph (1) of the said paragraph 14, but as if in the said sub-paragraph (1) for the reference to the total tax chargeable in respect of a gain accruing on the disposal there were substituted a reference to such part of that total tax as is equal to the amount by which that total tax exceeds the tax which would have been chargeable but for sub-paragraph (1) of this paragraph.*

Textual Amendments

F27 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 paras. 4 and 9 for 1979-80 et seq.

Private residences

- 21 *Where [subsection (2) of section 102 of the Capital Gains Tax Act 1979 ^{F28}] (private residences) would, apart from this paragraph, apply to a gain accruing to an individual on a disposal of an interest in land to which the principal section applies, then—*
- (a) *there shall first be computed both the development gain that would accrue to him in respect of the disposal if that subsection did not so apply and the chargeable gain that would accrue to him thereon if that were so;*
 - (b) *the amount of the development gain accruing to him in respect of the disposal shall be equal to the amount of the development gain as computed under (a) above reduced by the fraction given by that subsection; and*
 - (c) *that subsection shall then be applied to so much of the gain accruing on the disposal as is equal to the chargeable gain as computed under (a) above.*

Textual Amendments

F28 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 paras. 4 and 9 for 1979-80 et seq.

Transfer of business on retirement

- 22 (1) *Where a disposal within subsection (1) of [section 124 of the Capital Gains Tax Act 1979 ^{F29}] (transfer of business on retirement) involves a disposal by the individual*

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in question of one or more interests in land to which the principal section applies, the development gains, if any, accruing to him in respect of the disposal shall be computed without reference to that section.

- (2) *Where any development gains accrue to an individual in respect of a disposal within subsection (1) of the said [section 124 ^{F29}], being gains which so accrue—*
- (a) *where subsection (1)(a) of that section applies, on the disposal of chargeable business assets comprised in the disposal by way of sale or gift; or*
 - (b) *where subsection (1)(b) of that section applies, on the disposal of the shares or securities,*
- sub-paragraphs (3) to (5) below shall apply in relation to the disposal within the said subsection (1) made by that individual, instead of the provisions of that section.*
- (3) *There shall be ascertained how much of the amount available for relief under [the said section 124 ^{F29}] would, under [subsection (4) or (5) ^{F29}] of that section, have fallen to be applied in giving relief to the individual as respects the disposal if this Chapter had not applied in relation to the disposal.*
- (4) *An amount up to, but not exceeding, the amount ascertained under the preceding sub-paragraph shall be applied so as to give relief to the individual as respects the disposal by reducing or extinguishing one or both of the following amounts, that is to say—*
- (a) *the aggregate of the development gains accruing to the individual in respect of the disposal, being gains which so accrue as mentioned in sub-paragraph (2)(a) or (b) above; and*
 - (b) *the aggregate of the chargeable gains accruing to him on the disposal, being gains which so accrue as mentioned in the said sub-paragraph (2)(a) or (b),*
- and as between those amounts shall be so applied in whatever way is to the individual's best advantage.*
- (5) *[Subsection (7) of the said section 124 ^{F30}] shall apply for the purpose of arriving at the aggregate mentioned in sub-paragraph (4)(b) above as it applies (in cases where that section applies) for the purpose of arriving at the aggregate under [subsection (4) or (5) ^{F30}] of that section.*
- (6) *Any relief given under sub-paragraph (4) above as respects the disposal shall, for the purposes of the said [section 124 ^{F30}] as regards any other disposal within subsection (1) of that section, be taken into account in determining under subsection (4) of that section how far the amount available for relief under [that section ^{F30}] has been applied.*
- (7) *In this paragraph “chargeable business asset” has the same meaning as in the said [section 124 ^{F30}].*

Textual Amendments

F29 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.]

F30 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.]

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Insurance companies

- 23 *Where, in the case of an insurance company carrying on life assurance business, a profit arising from general annuity business and attributable to a disposal of an interest in land to which section 38 of this Act applies falls (or would but for paragraph 7(2) of Schedule 7 to this Act fall) to be taken into account in the computation under section 312 of the Taxes Act (general annuity business and pension business: separate charge on profits), the development gain, if any, accruing to the company in respect of the disposal shall be computed as if [section 31(1) of the Capital Gains Tax Act 1979 ^{F31}] (computation of chargeable gains: exclusion of sums taken into account in computing income) did not apply.*

Textual Amendments

F31 *Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.*

Chargeable gains in respect of mineral royalties

- 24 *No part of any chargeable gain which under section 29 of the Finance Act 1970 (taxation of mineral royalties) is treated as accruing to a person entitled to receive such royalties under a mineral lease or agreement shall be a development gain.*

Computation of development gain in respect of disposal of interest in land with planning permission for the winning and working of minerals

- 25 (1) *Without prejudice to any other provisions of this Schedule as to the computation of the amount given by subsection (3)(c) of the principal section, this paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if at the time of the disposal there is in force, as regards the land or any part of it, planning permission authorising material development consisting of the winning and working of minerals.*
- (2) *For the purpose of computing the amount given by subsection (3)(c) of the principal section, the amount of the chargeable gain accruing on the disposal shall be taken to be what it would be if the amount which, in the computation of that chargeable gain, falls to be taken as the consideration were reduced to the sum of the following amounts, that is to say—*
- (a) *the market value of the interest at the time of the disposal calculated on the assumption that it was at that time, and would continue to be, unlawful to carry out any material development of the land consisting of the winning and working of minerals; and*
 - (b) *one-half of the amount by which the actual consideration for the disposal exceeds the said market value.*

In this sub-paragraph “the actual consideration for the disposal” means the amount which, in the computation (apart from this paragraph) of the chargeable gain accruing on the disposal, falls to be taken as the consideration.

- (3) *Sub-paragraph (3) of paragraph 1 of this Schedule shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 1; and in this paragraph “minerals” has the meaning given by paragraph 10(1) of this Schedule.*

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(4) *For the purposes of this paragraph the winning and working of minerals includes the carrying out of any ancillary operations requisite therefor.]*

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