

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

SCHEDULES

^{F1}SCHEDULES 1, 2

Textual Amendments

- F1** Schedules 1, 2 repealed by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 844, **Sch. 31**.

^{F2}SCHEDULE 3

Section 38

PROVISIONS SUPPLEMENTARY TO SECTION 38

Textual Amendments

- F2** *Sch. 3* Repealed by Finance Act 1985 (c. 54, SIF 63:1), s. 98(6) and Sch. 27 Part X in relation to disposals of interests in land taking place on or after 19 March Finance Act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 ^{F3}

Textual Amendments

- F3** 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 Development Land Tax Act 1976 (c. 24), repealed by Finance Act 1985 (c. 54, SIF 63:1), ss. 93, 98(6) and Sch. 27 Part X.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

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development thereof which, being authorised by planning permission in force at that time, was begun before that time^{F4}.

(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—*

- (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

- F4** 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^{F5}] is, or would but for [subsection (4) of that section^{F5}] be, allowable as a deduction in computing under [Chapter II of Part II of that Act^{F5}] 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*

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allowable by virtue of [section 32 (1)(a) and (b) of the Capital Gains Tax Act 1979^{F5}] as a deduction in computing under [Chapter II of Part II of that Act^{F5}] 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, 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^{F5}] which under paragraph 4 of [Schedule 3^{F5} to that Act (sub-leases out of short leases) falls to be apportioned to what is disposed of.

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.

- 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^{F6}] 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

F6 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.

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- (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.*
- 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 ^{F7}] as is not under paragraph 1 of [Schedule 3 ^{F7}] to that Act excluded therefrom for the purposes of the computation under [Chapter II of Part II of that Act ^{F8}] 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

- F7** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.
F8 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^{F9}.*

Textual Amendments

- F9** 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;*

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- (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;*
 - (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.*

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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;*
 - (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^{F10}.*

Textual Amendments

F10 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—*

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“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;

“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^{F11}] since the person making the disposal acquired the interest [but before the appointed day, within the meaning of the Development Land Tax Act 1976 ^{F11}].*
- (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*

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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*
 - (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 ^{F12}] 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^{F13}] since the person making the disposal acquired the interets [but before the appointed day, within the meaning of the Development Land Tax Act 1976 ^{F13}], 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

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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

- F11** 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.
- F12** Capital Gains Tax Act 1979 (c. 14, SIF 63:1) s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.
- F13** 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 ^{F14}], would be allowable under [section 32(1)(b) of that Act ^{F14}] 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 ^{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}]).*
- (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 ^{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}], 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*

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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 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

- F14** Capital Gains Tax Act 1979 (c. 14, SIF 63:1) , s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.
- 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.
- 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.

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^{F17}] since the person making the disposal acquired the interest [but before the appointed day, within the meaning of the Development Land Tax Act 1976^{F17}], 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^{F17}] since the person making the disposal acquired the interest [but before the appointed day, within the

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meaning of the Development Land Tax Act 1976 ^{F17}] 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.

- (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

F17 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 ^{F18}.

Textual Amendments

F18 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.

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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 ^{F19}]

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.

- 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 ^{F20}] (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 ^{F20}] (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 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

F20 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 ^{F21}] (replacement of business assets) [apply ^{F21}], be computed as if any claim under [those sections ^{F21}] 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

F21 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 ^{F22}] 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 ^{F22}] 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) ^{F22}] or the said paragraph 18(4), as the case may be, did not apply to that consideration.*

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

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.

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 ^{F23}] (replacement of business assets) and the old assets consist of or include land in the United Kingdom; and*
 - (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*

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

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 ^{F24}] 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^{F25}.*
- (5) *For the purposes of sub-paragraphs (3)(a) and (4) above—*
- (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 ^{F26}] 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 ^{F26}], excluding assets within [paragraph 2 ^{F26}] of head A in class 1 other than land constituting the site of any asset within [paragraph 1 ^{F26}] 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).*

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

Textual Amendments

- F23** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.
F24 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.
F25 See 1975 (No.2) s. 55(5)—para. 18(4) excluded in computing chargeable gain on agricultural property.
F26 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 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,

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

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^{F27}.]*

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.

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^{F28}] (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^{F28}] 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^{F28}] 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

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.

Private residences

- 21 *Where [subsection (2) of section 102 of the Capital Gains Tax Act 1979^{F29}] (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—*

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

- (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

F29 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 ^{F30} (transfer of business on retirement) involves a disposal by the individual 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 ^{F30}], 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 ^{F30}] would, under [subsection (4) or (5) ^{F30}] 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 ^{F31}] 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) ^{F31}] of that section.*

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

- (6) Any relief given under sub-paragraph (4) above as respects the disposal shall, for the purposes of the said [section 124 ^{F31}] 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 ^{F31}] has been applied.
- (7) In this paragraph “chargeable business asset” has the same meaning as in the said [section 124 ^{F31}].

Textual Amendments

- F30** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.]
- F31** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.]

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 ^{F32}] (computation of chargeable gains: exclusion of sums taken into account in computing income) did not apply.

Textual Amendments

- F32** 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—

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

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

[^{F33}SCHEDULE 4

Section 38.

TRANSITIONAL PROVISIONS RELATING TO DEVELOPMENT GAINS

Textual Amendments

F33 Sch. 4 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).

1 *In this Schedule “the principal section” means section 38 of this Act.*

Replacement of business assets

2 (1) *This paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if the disposal is one in relation to which section 33 of the Finance Act 1965 (replacement of business assets) applies.*

(2) *Where—*

- (a) *a claim is made by a person under the said section 33 as respects so much of the consideration for the disposal as has been applied by him in acquiring other assets, or an interest in other assets (in this sub-paragraph referred to as “the new assets”) as described in subsection (1) of that section; and*
- (b) *the acquisition of, or of the interest in, some or all of the new assets took place either before 18th December 1973, or under an unconditional contract for the acquisition entered into before that date, or under a contract to which sub-paragraph (4) below applies,*

then the amount of any development gain accruing to him in respect of the disposal (as computed before this sub-paragraph is applied) shall be reduced by the amount, if any, by which so much of the consideration for the disposal as has been applied in acquiring before that date, or under such a contract, all or any of the new assets exceeds the sum of the amounts mentioned in the following sub-paragraph.

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

- (3) *The amounts referred to in the preceding sub-paragraph are the following, that is to say—*
- (a) *the sum that is by virtue of paragraph 4(1)(a) and (b) of Schedule 6 to the Finance Act 1965 allowable as a deduction from the consideration for the disposal in computing the chargeable gain; and*
 - (b) *the chargeable gain, if any, accruing to him on the disposal (as computed before the preceding sub-paragraph is applied).*
- (4) *This sub-paragraph applies to a contract made after 17th December 1973 if—*
- (a) *the parties thereto had before 18th December 1973 arranged (without entering into a binding contract) to dispose of and acquire the interest in question on terms which do not differ materially from the terms of the contract subsequently made; and*
 - (b) *the arrangement was made in writing, or is evidenced by a memorandum or note thereof so made before that date.*

Conditional contracts entered into before 18th December 1973

- 3 *If the disposal of an asset under a conditional contract entered into before 18th December 1973 is made for a consideration not depending wholly or mainly on the value of the asset at the time the condition is satisfied, then for the purposes of subsection (1) of the principal section the contract shall in relation to the disposal be treated (on the condition being satisfied) as if it had never been conditional.*

Disposals under arrangements made before 18th December 1973

- 4 *Where an owner of an interest in land to which the principal section applies had before 18th December 1973 arranged (without entering into a binding contract) to dispose of that interest to another person and—*
- (a) *the arrangement was made in writing, or is evidenced by a memorandum or note thereof so made before that date; and*
 - (b) *he disposes of the interest to that other person under a contract entered into before 18th December 1974 of which the terms do not differ materially from the terms of the arrangement or, if they so differ, are not more beneficial to the said owner;*
- the contract—*
- (i) *if not conditional, shall be treated for the purposes of subsection (1) of the principal section as if made before 18th December 1973; or*
 - (ii) *if conditional, shall be treated for the purposes of the preceding paragraph as if entered into before that date.*

Disposal to authority exercising compulsory powers where notice to treat was served before 18th December 1973

- 5 (1) *Where a disposal of an interest in land to which the principal section applies is made to an authority exercising compulsory powers, then, if notice to treat in respect of that interest was (or is by virtue of any enactment deemed to have been) served before 18th December 1973 on the person making the disposal, the disposal shall be treated for the purposes of this Chapter as having been made before that date.*

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

- (2) *In this paragraph “authority exercising compulsory powers” means, in relation to any disposal of an interest in land, a person acquiring the interest compulsorily or who has been authorised to acquire it compulsorily (whether for himself or some other person).]*

^{F34}SCHEDULE 5

Textual Amendments

F34 Schedule 5 repealed by Finance Act 1976 (c. 40), Sch. 15 Pt. VII.

[^{F35}SCHEDULE 6

Section 40.

DEVELOPMENT LOSSES

Textual Amendments

F35 Sch. 6 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).

Interpretation

- 1 (1) *In this Schedule “the principal section” means section 40 of this Act.*
- (2) *Part I of Schedule 3 to this Act shall apply for the purposes of the principal section and this Schedule as it applies for the purposes of section 38 of this Act.*

Losses accruing to persons not resident or ordinarily resident in the United Kingdom

- 2 *A loss accruing to a person in a chargeable period during no part of which he is resident or ordinarily resident in the United Kingdom shall not be to any extent a development loss unless, under [section 12 of the Capital Gains Tax Act 1979 ^{F36}] as applied by paragraph 1 of Schedule 8 of this Act, he would (or would but for section 39(1) of this Act) be chargeable to income tax or corporation tax in respect of a development gain if there had been a gain instead of a loss on that occasion.*

Textual Amendments

F36 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

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

Modification of sections 176 and 179 of the Taxes Act (Case VI losses) in relation to development losses

3 *In its application to a development loss in accordance with subsection (3) of the principal section—*

- (a) *section 176 of the Taxes Act shall have effect with the omission of so much of subsection (5) as precedes the words “but the question”; and*
- (b) *section 179 of that Act shall have effect with the omission of subsection (3).*

4 *Without prejudice to the following provisions of this Schedule, any development losses which have accrued to a person in any chargeable period shall under section 176 or, as the case may be, section 179 of the Taxes Act be deducted from or set off against—*

- (a) *first, any development gains accruing to him in that period;*
- (b) *secondly, any other profits or gains or income arising from transactions in respect of which he is assessed for that period under Case VI of Schedule D;*
- (c) *thirdly, any development gains accruing to him in the first subsequent chargeable period;*
- (d) *fourthly, any other profits or gains or income arising from transactions in respect of which he is assessed for the last-mentioned chargeable period under that Case,*

and so on for each successive chargeable period.

Computation of development loss in cases where paragraph 11 or 12 of Schedule 3 would apply in computing a development gain

5 *For the purpose of computing the development loss accruing to a person in respect of a disposal of an interest in land to which the principal section applies, being a disposal in relation to which paragraph 11 or 12 of Schedule 3 to this Act would (or would but for paragraph 13 of that Schedule) apply if a chargeable gain had accrued to him on the disposal, paragraphs 11, 12 and 14 (but not 13) of that Schedule shall have effect in relation to the disposal subject to the following modifications, that is to say—*

- (a) *paragraph 11(2) shall be omitted;*
- (b) *in paragraphs 11(3) and 12(2), the references to the amount given by section 38(3)(c) of this Act shall be read as references to the amount given by section 40(4) of this Act; and*
- (c) *in paragraph 11, for the word “exceeds”, wherever occurring, there shall be substituted the words “is less than”.*

Computation of amount given by subsection (4) of principal section in certain cases within [paragraph 9(4) of Schedule 5 to the Capital Gains Tax Act 1979^{F37}]

Textual Amendments

F37 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

6 *Where an allowable loss 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^{F38}] (sales of land in*

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

United Kingdom reflecting development value) applies, then, if the amount of the loss is by virtue of sub-paragraph (4) of that paragraph computed without regard to [the said Schedule 5^{F38}] (assets held on 6 th April 1965), this Chapter shall have effect in relation to that disposal as if in subsection (4) of the principal section and paragraphs 11 and 12 of Schedule 3 to this Act (as applied by paragraph 5 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 of that date referred only to its current use value at the time of its acquisition by him.

Textual Amendments

F38 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Private residences

- 7 Where a claim under the principal section is made in respect of a disposal by an individual of an interest in land to which the principal section applies, being an interest such that [section 102(2) of the Capital Gains Tax Act 1979^{F39}] (private residences) would, apart from this paragraph, apply to the loss accruing to him on the disposal, paragraph 21(a) to (c) of Schedule 3 to this Act shall have effect in relation to the disposal subject to the following modifications, that is to say—
- (a) any reference to a chargeable gain shall be read as a reference to an allowable loss;
 - (b) any reference to a development gain shall be read as a reference to a development loss; and
 - (c) any other reference to a gain shall be read as a reference to a loss.

Textual Amendments

F39 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Set-off of development losses

- 8 (1) Where, in the case of any person, section 39(1) of this Act applies in relation to any chargeable period, then, if any development losses accrued to him in that period, they shall for the purposes of section 176 or 179 of the Taxes Act (Case VI losses) be treated as reduced by the amount of the development gains which, but for the said section 39(1), would have accrued to him in the period in which the development losses accrued.
- ^{F40}(2)
- (3) For any year of assessment in which a married woman is living with her husband, they shall be treated for the purposes of this paragraph as one person.

Textual Amendments

F40 Schedule 6 para. 8(2) repealed by Finance Act 1976 (c.40), Sch. 15.

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

Insurance companies

- 9 (1) *Where, in the case of an insurance company carrying on life assurance business, a loss arising from general annuity business and attributable to a disposal of an interest in land to which the principal section applies falls (or would but for the following sub-paragraph 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 loss, 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 ^{F41}] (computation of chargeable gains: exclusion of sums taken into account in computing income) did not apply.*
- (2) *Development losses shall be left out of account in computing under the said section 312 the profits arising to an insurance company from general annuity business and, accordingly, in subsection (2) of section 313 of the Taxes Act (general annuity business), after paragraph (a) there shall be inserted as paragraph (aa)—[for text see 1970 s.313(2)(aa)].*
- (3) *This paragraph shall be construed as one with Chapter II of Part XII of the Taxes Act.]*

Textual Amendments

F41 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

[^{F42}SCHEDULE 7

Section 44.

TREATMENT OF DEVELOPMENT GAINS UNDER THE TAX ACTS

Textual Amendments

F42 Sch. 7 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)

Individuals

- [^{F43} For the purposes mentioned in subsection (3) of section 32 of the Finance Act 1971 (income tax charged at basic and other rates) a development gain accruing to an individual shall not be investment income^{F43}.]

Textual Amendments

F43 Sch. 7 para. 1 repealed by Finance Act 1984 (c. 43, SIF 63:1), ss. 17(2), 128(6), Sch. 7 paras. 3(4), 23, Part VI

- 2 (1) *An individual to whom a development gain accrues may on making a claim require that effect shall be given to the following provisions of this paragraph in relation to that gain.*

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

- (2) *If the interval between the claimant's acquisition and disposal of the asset on the disposal of which the development gain accrued to him exceeds twelve months but does not exceed twenty-four months, then, for all income tax purposes, one-half only of the amount of the gain shall be treated as having arisen on the date of the disposal, and the remaining half shall be treated as having arisen twelve months before that date.*
- (3) *If the said interval exceeds twenty-four months but does not exceed thirty-six months, then, for all income tax purposes, one-third only of the amount of the gain shall be treated as having arisen on the date of the disposal, and one-third shall be treated as having arisen twelve months, and one-third twenty-four months, before that date.*
- (4) *If the said interval exceeds thirty-six months, then, for all income tax purposes, one-quarter only of the amount of the gain shall be treated as having arisen on the date of the disposal, and one-quarter shall be treated as having arisen twelve months, one-quarter twenty-four months, and one-quarter thirty-six months, before that date.*

Companies: general

- 3 (1) *Subject to paragraph 4 below, advance corporation tax paid by a company shall not be set against its liability to corporation tax on any profits attributable to development gains and, accordingly, in section 85(6) of the Finance Act 1972 after the words "chargeable gains", in both places where they occur, there shall be inserted the words "or development gains".*
- (2) *In subsection (8) of section 95 and subsection (3) of section 96 of the Finance Act 1972 (where the income of a company is defined for the purposes of those sections by reference to the said section 85(6)), after the words "section 85(6) above" there shall be added the words "as originally enacted".*

Close companies

- 4 (1) *Paragraph 3(1) above shall not apply in the case of a close company as regards an accounting period for which the income of the company may under paragraph 1 of Schedule 16 to the Finance Act 1972 be apportioned among the participators or could be so apportioned apart from sub-paragraphs (2) and (3) of that paragraph; and accordingly section 85(6) of the Finance Act 1972 shall, in the case of a close company, have effect as regards any such accounting period as if the said paragraph 3(1) had not been enacted.*
- (2) *For the purposes of paragraph 11(1) of Schedule 16 to the Finance Act 1972 (close companies: definition of trading company) a development gain accruing to a company shall not be investment income.*
- 5 *In paragraph 10(8) of Schedule 16 to the Finance Act 1972 (order in which different descriptions of company's income are to be treated as reduced by allowable deductions)—*
 - (a) *in paragraph (b), for the word "and" there shall be substituted the words "other than estate or trading income attributable to development gains";*
 - (b) *in paragraph (c), for the words "chargeable gains" there shall be substituted the words "development gains; and";*
 - (c) *after paragraph (c) there shall be inserted as paragraph (d)—*

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

“(d) fourthly, so far as it cannot be made under (a), (b) or (c) above, from the amount included in the company’s profits in respect of chargeable gains.”

Modifications etc. (not altering text)

C1 The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

6 *After paragraph 14 of Schedule 16 to the Finance Act 1972 there shall be inserted the following paragraph—*

- “14A (1) For the purposes of paragraph 14 above any part of a company’s distributable income which is attributable to development gains to which this paragraph applies shall be treated as not affected by any such restriction as is mentioned in sub-paragraph (1) of that paragraph, and the amount which would otherwise be disregarded under that sub-paragraph shall accordingly be reduced by an amount equal to that part.
- (2) This paragraph applies to any development gain accruing in respect of a disposal which is by virtue of section 45(1) of the Finance Act 1974 or paragraph 2(3) of Schedule 9 to that Act deemed to have been made.
- (3) Any deduction which under paragraph 10(8)(c) above is treated as made from the amount included in a company’s profits in respect of development gains shall for the purposes of this paragraph be treated as made first from any amount so included in respect of development gains to which this paragraph applies.
- (4) For the purposes of this paragraph the part, if any, of a company’s distributable income which is attributable to development gains to which this paragraph applies is the part attributable to such development gains after the making of any deduction under paragraph 10(8)(c) above in accordance with sub-paragraph (3) of this paragraph”

Modifications etc. (not altering text)

C2 The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Insurance companies

- 7 (1) *A development gain accruing to an insurance company carrying on life assurance business shall, if it accrues in respect of investments held in connection with that business, be treated for the purposes of sections 310 (rate relief: investment income reserved for policy holders) and 315 (foreign life assurance funds) of the Taxes Act as if it were income from investments held in connection with that business.*
- (2) *Income attributable to development gains shall be left out of account in computing under section 312 of the Taxes Act (general annuity business and pension business: separate charge on profits) the profits arising to an insurance company from general*

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

annuity business and, accordingly, in subsection (2)(a) of section 313 of the Taxes Act (general annuity business) for the words “and group income” there shall be substituted the words “group income and income attributable to development gains”.

- (3) *Overseas life insurance companies shall be chargeable to corporation tax on income attributable to development gains in the same manner as other insurance companies carrying on life assurance business and, accordingly, in section 316 of the Taxes Act (overseas life insurance companies: charge on investment income) after subsection (1) there shall be inserted as subsection (1A)—[for text see 1970 s.316(1A)].*

“(1A) In the preceding subsection “income” shall not include income attributable to development gains (but without prejudice to any claim under section 310 of this Act)”

- (4) *This paragraph shall be construed as one with Chapter II of Part XII of the Taxes Act.*

Modifications etc. (not altering text)

- C3** The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Discretionary trusts

- 8 *In section 17 of the Finance Act 1973 (payments under discretionary trusts), in subsection (3) (amounts to be set against tax assessable on trustees in connection with such payments), at the end of paragraph (d) there shall be inserted the words—*

“and

- (e) the amount of any tax on income arising to the trustees by virtue of section 38(2) of the Finance Act 1974 (development gains) and charged at a rate equal to the sum of the basic rate and the additional rate in pursuance of section 43(1) of that Act;”

Modifications etc. (not altering text)

- C4** The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Estates of deceased persons in course of administration

- 9 (1) *Where a development gain has accrued to the personal representatives of a deceased person as such during the administration period, PartXV of the Taxes Act (estates of deceased persons in course of administration) shall have effect subject to the following provisions of this paragraph.*

- (2) *For the purposes of section 426(5) of the Taxes Act (relief from tax on deemed income in respect of a limited interest in a foreign estate)—*

- (a) *any income arising to the personal representatives of a deceased person as such by virtue of section 38(2) of this Act (development gains) shall be*

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

*treated as not forming part of the aggregate income of the estate in question;
 and*

(b) *any United Kingdom income tax borne by any such income shall be left out of account.*

(3) *Section 427 of the Taxes Act (absolute interests in residue) shall have effect as if—*

(a) *for subsection (3)(a) there were substituted—*

“(a) in the case of a United Kingdom estate—

(i) in the first instance, as regards so much of his residuary income for that year as has borne income tax at the basic rate for that year, that much of that income less income tax at that rate, and

(ii) subject to the preceding sub-paragraph, as regards so much of his residuary income for that year as has borne income tax at a rate equal to the sum of the basic rate and the additional rate for that year, that much of that income less income tax at the sum of those rates,

and”

(b) *in subsection (3), as amended by paragraph 53(b) of Schedule 6 to the Finance Act 1971, there were added at the end the words— “ or, where appropriate, at a rate equal to the sum of the basic rate and the additional rate ”; and*

(c) *in subsection (4)(a), as amended by paragraph 53(c) of the said Schedule 6, after the words “the basic rate” there were inserted the words— “ or, in so far as it has borne income tax at a rate equal to the sum of the basic rate and the additional rate, at a rate equal to the sum of those rates ”.*

(4) *Section 429 of the Taxes Act (special provisions as to certain interests in residue) shall have effect as if in subsection (2)(a), as amended by paragraph 55 of the said Schedule 6, after the words “the basic rate” there were inserted the words— “ or, in so far as it has borne income tax at a rate equal to the sum of the basic rate and the additional rate, at the sum of those rates ”.*

(5) *This paragraph shall be construed as one with Part XV of the Taxes Act; [F44 and in sections 427 and 429 of that Act, as they have effect by virtue of this paragraph, “the additional rate” means the additional rate mentioned in section 32(1) of the Finance Act 1971 or, if more than one, the higher or highest of them.]*

Textual Amendments

F44 Words repealed by [Finance Act 1984 \(c. 43, SIF 63:1\)](#), ss. 17(2), 128(6), [Sch. 7 paras. 3\(4\), 23](#), [Sch. 7 Part VI](#)

Modifications etc. (not altering text)

C5 The text of ss. 50, 54(1)(2), 56, [Sch. 7 paras. 5\(c\), 6, 7\(3\), 8, 9\(3\)\(a\)\(c\)\(4\)](#), [Sch. 14 Pts. I–IV, VI, VII](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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

Settlements on children

- 10 *Where a development gain accrues in respect of a disposal of assets made by a person holding them as trustee for a person who would be absolutely entitled as against the trustee but for being an infant, the income which by virtue of section 38(2) of this Act is treated as arising by reference to that gain shall for the purposes of Chapter II of Part XVI of the Taxes Act (settlements on children) be deemed to be paid to the infant.*
In this paragraph “infant”, in relation to Scotland, means a pupil or minor.]

[^{F45}SCHEDULE 8

Section 44.

ADAPTATIONS AND AMENDMENTS OF PROVISIONS RELATING TO THE TAXATION OF CAPITAL GAINS

Textual Amendments

- F45** Sch. 8 repealed by Finance Act 1985 (c. 54, SIF 63:1), s. 98(6), 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).

Persons chargeable to tax in respect of development gains

- 1 [Sections 2 and 12 of the Capital Gains Tax Act 1979 ^{F46}] (persons chargeable to capital gains tax or corporation tax in respect of chargeable gains) shall have effect in relation to income tax or corporation tax in respect of development gains as they have effect in relation to capital gains tax or corporation tax in respect of chargeable gains.

Textual Amendments

- F46** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Development gains accruing to non-resident companies and trusts

- 2 [Section 15 of the Capital Gains Tax Act 1979 ^{F47}] (chargeable gains accruing to certain non-resident companies) shall have effect in relation to development gains as it has effect in relation to chargeable gains, subject to the modification that for the reference in subsection (7) to capital gains tax there shall be substituted a reference to income tax or corporation tax.

Textual Amendments

- F47** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

- 3 [Section 17 of the Capital Gains Tax Act 1979 ^{F48}] (chargeable gains accruing to non-resident trusts) shall have effect in relation to development gains as it has effect in relation to chargeable gains, subject to the following modifications, that is to say—

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

- (a) in subsection (2), for the words “capital gains tax under [section 4(1) above ^{F48}]” there shall be substituted the words “income tax by virtue of section 38(2) of the Finance Act 1974”; and
- (b) for the references to capital gains tax in subsections (4)(b) and (5) there shall be substituted references to income tax or corporation tax.

Textual Amendments

F48 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Development gains accruing in connection with replacement of business assets

- 4 Where a development gain accrues to a person in respect of a disposal of an interest in land to which section 38 of this Act applies, being a disposal in relation to which section [sections 115 to 121 of the Capital Gains Tax Act 1979 ^{F49}] (replacement of business assets) [apply ^{F49}], then, if a claim under [those sections ^{F49}] is made as respects the whole or any part of the consideration for the disposal, the consideration obtained by him for the disposal shall be treated for the purposes of [those sections in their application ^{F49}] in relation to the disposal as if it were equal to the amount by which the actual consideration obtained by him exceeds the amount of the said development gain.

Textual Amendments

F49 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Development gains accruing in connection with company amalgamations

- 5 Where a company has issued shares or debentures to a person in exchange for shares or debentures in another company in a case falling within paragraph 20 of Schedule 3 to this Act, the amount of any development gain which accrued to him in respect of the disposal by him to the issuing company of the shares or debentures in the other company shall, in computing under [Chapter II of Part II of the Capital Gains Tax Act 1979 ^{F50}] the gain accruing on a disposal of the shares or debentures so issued to him, be treated as an amount allowable under [section 32(1)(b) of that Act ^{F50}].

Textual Amendments

F50 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Transfer of business to a company

- ^{F51}6

Textual Amendments

F51 Schedule 8 para. 6 repealed by Capital Gains Tax Act 1979 (c. 14, SIF 63:2), s. 158, Sch. 8.

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

- 7 (1) *If, in a case where [section 123 of the Capital Gains Tax Act 1979 ^{F52}] applies, any development gains accrue to the transferor in respect of his disposal (referred to below as “the original disposal”) of the assets included in the business, then, if the transferor makes a claim under this paragraph as respects the transfer, the following provisions of this paragraph shall apply.*

This paragraph shall be construed as one with the [said section 123 ^{F52}.]

- (2) *For the purposes of this paragraph—*
- (a) *“the net development gains” means the development gains accruing to the transferor in respect of the original disposal, as reduced by any development losses deducted from or set off against those gains under section 176 or 179 of the Taxes Act in accordance with paragraph 4 of Schedule 6 to this Act;*
 - (b) *“the qualifying amount” —*
 - (i) *if the business is transferred wholly in exchange for shares issued by the company to the transferor, means the amount of the net development gains;*
 - (ii) *in any other case, means the amount by which what would have been the amount determined under [subsection (4) of the said section 123 ^{F53}] if this Chapter had not been enacted exceeds the amount actually determined under [that subsection ^{F53}], or the amount of the net development gains, whichever is the smaller;*
 - (c) *the qualifying amount shall be apportioned between the new assets (that is to say, the shares received by the transferor in exchange for the business) as a whole, and, if those shares are not all of the same class, the apportionment between them shall be in accordance with their market values at the time they were acquired by the transferor.*
- (3) *The profits or gains chargeable to tax under Case VI of Schedule D on the transferor for the year of assessment in which the original disposal is made shall be reduced by the qualifying amount.*
- (4) *If the transferor disposes of shares comprised in the new assets, being all the shares of a particular class which are so comprised, then the amount apportioned to those shares under sub-paragraph (2)(c) above shall be treated as a development gain accruing to him in the year of assessment in which that disposal is made and as constituting profits or gains chargeable to tax under Case VI of Schedule D for that year.*
- (5) *If the transferor disposes of shares comprised in the new assets, being some but not all of the shares of a particular class which are so comprised (so that the disposal constitutes a part disposal), then a fraction only of the amount apportioned to all the shares of that class under sub-paragraph (2)(c) above shall be treated as mentioned in the preceding sub-paragraph, and that fraction shall be the fraction of the sums mentioned in the following sub-paragraph which is allowable as a deduction in computing under [Chapter II of Part II of the Capital Gains Tax Act 1979 ^{F53}] the amount of the gain accruing on that part disposal.*
- (6) *The sums referred to in the preceding sub-paragraph are the sums which, if all the shares of the class in question comprised in the new assets and remaining undisposed of immediately before the time of the part disposal in question had been disposed of at that time, would be allowable by virtue of [section 32(1)(a) and (b) of the Capital*

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

Gains Tax Act 1979^{F53}] as a deduction in computing under [Chapter II of Part II of that Act^{F53}] the gain accruing on the disposal of all those shares.

- (7) *Where an individual to whom a development gain is treated as accruing by virtue of this paragraph makes a claim under paragraph 2 of Schedule 7 to this Act as respects that gain, sub-paragraphs (2) to (4) of that paragraph shall have effect in relation to that claim subject to the following modifications, that is to say—*
- (a) *the references to the interval between the claimant's acquisition and disposal of the asset on the disposal of which the development gain accrued to him shall be read as references to the interval between the date when he acquired any of those assets of the business which caused development gains to accrue to him in respect of the original disposal and the date of the original disposal; and*
 - (b) *the references to "the date of the disposal" shall be read as references to the date of the disposal of shares comprised in the new assets which is mentioned in sub-paragraph (4) or (5) above, as the case may be.]*

Textual Amendments

F52 *Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.*

F53 *Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.*

[^{F54}SCHEDULE 9

Section 45.

SUPPLEMENTARY PROVISIONS ABOUT DEEMED DISPOSALS UNDER SECTION 45

Textual Amendments

F54 *Sch. 9 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).*

Interpretation

- 1 (1) *In this Schedule—*

"the five-year period", in relation to a relevant chargeable building, means the period of five years beginning with the material date;

"the interest of a relevant person", in relation to a relevant chargeable building, means that interest of a relevant person in the relevant land by virtue of which he is a relevant person (and references to a relevant person's interest shall be construed accordingly);

"the principal section" means section 45 of this Act;

"relevant chargeable building" means a chargeable building which after 17th December 1973 is first let or occupied to a material extent after the commencement of the relevant development, other than a chargeable building in the case of which, by virtue of subsection (3) of the principal section, subsection (1) of that section does not apply;

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

“relevant person”, in relation to a chargeable building which after 17th December 1973 is first let or occupied to a material extent after the commencement of the relevant development, means any person who after that date, either by granting one or more leases or by his occupation of the whole or any part or parts of the chargeable building, caused or helped to cause the building to be let or occupied as aforesaid.

- (2) In the application of the principal section and this Schedule 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;
“reversion” means the interest of the landlord in property subject to a lease.

The interest of a relevant person

- 2 (1) In the case of a relevant chargeable building, this paragraph shall apply in relation to the interest of a relevant person in the relevant land.
- (2) Subsection (1) of the principal section shall not apply to a relevant person’s interest in the relevant land on the material date unless on that date—
- (a) the relevant land is wholly or partly let under one or more leases granted by him; and
 - (b) the rent or aggregate of the rents to which he is entitled under the lease or leases is £5,000 or more per annum,

and shall in any case not apply to his interest in so much, if any, of the relevant land as is occupied by him on that date.

For the purposes of this and the following sub-paragraph a relevant person who on any date occupies not less than 90 per cent. of the floor area of the relevant chargeable building shall be deemed to occupy on that date the whole of so much of the relevant land as is then subject to his interest (and references to occupation in this and the following sub-paragraph shall be construed accordingly).

- (3) Where by virtue of sub-paragraph (2) above subsection (1) of the principal section does not apply—
- (a) to a relevant person’s interest in the relevant land on the material date by reason of his occupation of so much of that land as is subject to that interest; or
 - (b) to a relevant person’s interest in that land on that date so far as it is not occupied by him,

then, if within the five-year period the rent or aggregate of the rents to which he is entitled under any lease or leases by which he has let the whole or any part or parts of the relevant land becomes £5,000 or more per annum, he shall be deemed for the purposes of [the Capital Gains Tax Act 1979 ^{F55}] and Chapter I of this Part of this Act to have on the subsequent date disposed of and immediately re-acquired for a consideration equal to its market value his interest in so much of the relevant land as is not on the subsequent date occupied by him ^{F56}.

In this and the following sub-paragraph “the subsequent date” means the date within the five-year period on which the said rent or the aggregate of the said rents first becomes £5,000 or more per annum or, if this sub-paragraph would to any extent apply to a relevant person’s interest on the last-mentioned date but for his occupation on that date of not less than 90 per cent. of the floor area of the relevant chargeable

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

building, the date (if any) within the five-year period on which he first occupies less than 90 per cent. of that floor area.

- (4) *If before the end of the five-year period a relevant person—*
- (a) *in a case where subsection (1) of the principal section applies to his interest on the material date in so much of the relevant land as was not occupied by him on that date, ceases to occupy any part of the relevant land which was occupied by him on that date; or*
 - (b) *in a case where sub-paragraph (3) above applies to his interest on the subsequent date in so much of the relevant land as was not occupied by him on that date, ceases to occupy any part of the relevant land which was occupied by him on that date,*

then the said subsection (1) or sub-paragraph (3) shall apply to his interest in that part as if he had not been in occupation of it on the material date or the subsequent date, as the case may be (but without prejudice to the operation of this sub-paragraph in relation to his interest in any other such part of the relevant land which he may cease to occupy within the five-year period).

- (5) *For the purposes of this paragraph the rent per annum to which a relevant person is entitled at any particular date under a lease of the whole or part of the relevant land shall be treated as being whichever of the following is the greater, that is to say—*
- (a) *the rent which at the time when the lease was granted was the rack-rent for so much of the relevant land as is let under the lease; and*
 - (b) *the actual rent per annum to which he is entitled under the lease at that date.*

Textual Amendments

F55 *Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 8 for 1979-80 et seq.*

F56 *See 1972 Sch. 16 para. 14A—legal restrictions on distributions not to affect amount of close company's income apportionable to participators so far as attributable to development gains on disposal deemed to have been made by virtue of Sch. 9 para. 2(3).*

Interests other than that of a relevant person

- 3 (1) *Subject to the following paragraphs of this Schedule, this paragraph (so far as applicable) shall in the case of a relevant chargeable building have effect with respect to any interest (other than the interest of a relevant person) which a person has in the relevant land on the material date, being a freehold interest or an interest under a lease or agreement for a lease.*
- (2) *Subsection (1) of the principal section shall not apply to a person's freehold interest in the whole or part of the relevant land or to the interest of a lessee under a lease of the whole or part of the relevant land if at the material date—*
- (a) *that interest is not subject to any lease or agreement for a lease, and the rack-rent for so much of the relevant land as is subject to that interest is less than £5,000 per annum and cannot reasonably be expected to be increased to or above £5,000 per annum within the five-year period; or*
 - (b) *that interest is subject to one or more leases or agreements for a lease extending, or together extending, to the whole of so much of the relevant land as is subject to that interest, and the rent or aggregate of the rents to which he is or is to be entitled under or by virtue of the said one or more leases or agreements is less than £5,000 per annum and cannot reasonably*

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be expected to be increased to or above £5,000 per annum within the five-year period; or

- (c) *that interest is subject to one or more leases or agreements for a lease extending, or together extending, to part only of so much of the relevant land as is subject to that interest, and the aggregate of—*

- (i) *the rent or aggregate of the rents to which he is or is to be entitled under or by virtue of the said one or more leases or agreements; and*
(ii) *the rack-rent for the remainder of so much of the relevant land as is subject to that interest,*

is less than £5,000 per annum and cannot reasonably be expected to be increased to or above £5,000 per annum within the five-year period.

- (3) *Sub-paragraph (2) above shall apply in relation to the interest of a person under an agreement to grant him a lease of the whole or part of the relevant land as it applies in relation to the interest of a lessee under a lease of the whole or part of the relevant land, subject to the modification that in paragraphs (a) to (c) the references to his interest under that agreement being subject to one or more leases shall be omitted.*

- (4) *Where a person's interest in the relevant land falls within sub-paragraph (1) above and is not excluded from the operation of subsection (1) of the principal section by any of the preceding provisions of this paragraph, the said subsection (1) shall not apply to that interest if the rent or aggregate of the rents to which he is or is to be entitled under or by virtue of any one or more leases or agreements for a lease to which at the material date that interest is subject does not, and cannot be made to, reflect the value or any part of the value of the relevant development.*

- (5) *Where—*

- (a) *the preceding sub-paragraph would apply to a person's interest in the relevant land but for the fact that the rent or aggregate of the rents there mentioned can be made to reflect the value or part of the value of the relevant development; but*
(b) *that rent or the aggregate of those rents cannot be made to reflect that value (or part of it) until a date as from which the rent or one or more of the rents in question could be increased under provisions for the review of the rent contained in any relevant lease or agreement,*

then, if that person makes a claim under this sub-paragraph, subsection (1) of the principal section shall in the case of that interest or, if the rent or rents which can be increased as mentioned in paragraph (b) above extend to part only of a person's interest, that part of his interest apply as if the last reference therein to the material date were a reference to the date mentioned in paragraph (b) of this sub-paragraph and, where the rent or rents which can be increased at that date extend to part only of a person's interest, as if his interest in the relevant land were limited to that part.

- 4 (1) *In the case of a relevant chargeable building, paragraph 3 of this Schedule shall not have effect with respect to an interest which a person has in the relevant land on the material date, being either—*

- (a) *a freehold or leasehold interest which on the material date is subject to a lease or an agreement to grant a lease, being (in either case) a lease of which the term will expire within the period of twenty-five years from the commencement of the relevant development; or*
(b) *an interest under an agreement for a lease which on the material date is subject to an agreement to grant a lease of which the term will expire within the said period.*

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- (2) *The provisions of subsections (1)(b), (c) and (d) and (2) to (3A) of section 84 of the Taxes Act shall have effect in ascertaining for the purposes of this paragraph when the term of a lease or prospective lease will expire as they have effect in ascertaining the duration of a lease for the purposes of sections 80 to 82 of that Act, but as if—*
- (a) *in the said subsection (1)(b), after the word “premium” there were inserted the words “(if any)”;*
 - (b) *in the said subsection (2), for the words from “the time of the grant of the lease” to “entered into” there were substituted the words “the material date referred to in paragraph 4(1) of Schedule 9 to the Finance Act 1974”;*
 - (c) *in the said subsection (3A), the reference to the provisions of subsections (1) to (3) of the said section 84 were a reference to those provisions as applied by this paragraph;*
 - (d) *in the case of a prospective lease, references to what its terms do were references to what, in accordance with the agreement under which the lease is to be granted, its terms are to do.*
- 5 *In the case of a relevant chargeable building, subsection (1) of the principal section shall not apply to an interest in the relevant land which does not fall within paragraph 2, 3 or 4 of this Schedule if the market value of that interest on the material date is less than £10,000.*

Provisions supplementary to paragraph 3

- 6 (1) *The following provisions of this paragraph shall have effect for the purposes of paragraph 3 of this Schedule.*
- (2) *Without prejudice to sub-paragraphs (3) and (4) below, if at the time when a lease or agreement for a lease was granted or entered into the parties thereto were not at arm’s length, the rent to which the lessor or party agreeing to grant a lease is or is to be entitled shall be deemed to be what it would be if, the other terms of the lease or agreement remaining as they are, the amount of the rent had been negotiated by the parties at arm’s length.*
- (3) *Where the payment of any premium, fine or other capital sum (whether in lieu of or in addition to rent)—*
- (a) *is required under a lease or otherwise under the terms subject to which a lease is granted, or on the granting of a lease; or*
 - (b) *will be so required by virtue of an agreement for a lease; or*
 - (c) *is on the making of an agreement for a lease required from the party to whom the lease is to be granted,*
- the amount per annum of the rent to which the lessor or party by whom the lease is to be granted is or is to be entitled under or by virtue of the lease or agreement shall be deemed to be (if there is or is to be no actual rent) or to include (in addition to the actual rent, where there is or is to be any) the annual equivalent of that sum or, if there are two or more such sums, the aggregate of their respective annual equivalents.*
- (4) *Where the terms subject to which a lease is or is to be granted impose or are to impose on the lessee an obligation to carry out any work on the premises, the lease shall for the purposes of sub-paragraph (3) above be deemed to have required, or to be one that will require the payment of a premium to the lessor (in addition to any other premium) of an amount equal to the amount by which the value of the interest of the lessor immediately after the commencement of the lease exceeds or will exceed*

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what its then value would have been or would be if the said terms did not or were not to impose that obligation on the lessee.

Exemption for interest in land occupied on the material date in right of that interest

- 7 (1) *Where, in the case of a relevant chargeable building, subsection (1) of the principal section would, apart from this paragraph, apply to an interest (not being the interest of a relevant person) which a person has in the relevant land on the material date, the following provisions of this paragraph shall apply if on that date any part of the relevant land is occupied by him in right of that interest.*
- (2) *Subject to the following provisions of this paragraph, the said subsection (1) shall not apply to that interest of that person in so much of the relevant land as is on the material date occupied by him in right thereof.*
- (3) *If before the end of the five-year period that person ceases to occupy any part of the relevant land, being a part in which he had an interest on the material date and to which the said subsection (1) would apply but for sub-paragraph (2) above, the said sub-paragraph (2) shall cease to apply to the interest which he had on that date in that part, and the said subsection (1) shall apply thereto accordingly.*
- (4) *For the purposes of this paragraph a person who on any date occupies not less than 90 per cent. of the floor area of the relevant chargeable building shall be deemed to occupy on that date the whole, and not to have ceased on that date to occupy any part, of so much of the relevant land as is then subject to his interest (and references to occupation and ceasing to occupy shall be construed accordingly).*

Exemption for interest in land disposed of after the material date

- 8 (1) *Where, in the case of a relevant chargeable building, subsection (1) of the principal section or sub-paragraph (3) of paragraph 2 of this Schedule would, apart from this paragraph, apply to an interest which a person has in the relevant land on the material date, or, as the case may be, the subsequent date within the meaning of that sub-paragraph, then, subject to the following provisions of this paragraph, that subsection or sub-paragraph, as the case may be, shall not apply, and be deemed never to have applied, to that interest if the whole of that interest is disposed of by him within the period of three years beginning with that date or such longer period as the Board may by notice in writing allow.*
- (2) *The preceding sub-paragraph shall not be taken to affect the application of the said subsection (1) to interests in the relevant land which are not excluded therefrom by that sub-paragraph.*
- (3) *Sub-paragraph (1) above shall not apply if by virtue of any enactment the person disposing of his interest in the relevant land (“the disposer”) and the person to whom the disposal is made fall to be treated as if the latter’s acquisition of it were for a consideration of such amount as would secure that on the disposal by the disposer neither a gain nor a loss would accrue to the disposer.*

*Exemption by reference to occupation within three years
of the material date of land then intended to be occupied*

- 9 (1) *The following provisions of this paragraph shall have effect for the purposes of paragraphs 2 and 7 of this Schedule in the case of a relevant chargeable building.*

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

- (2) *If on the material date a person—*
- (a) *has an interest in a part of the relevant land which is not then occupied by him; and*
 - (b) *intends to occupy that part in right of that interest,*
- then, if within the period of three years beginning with that date he goes into occupation of that part in right of that interest, he shall be deemed to have been in occupation of that part in right of that interest throughout the period beginning with the material date and ending with the time when he so went into occupation of it (even if that part was wholly or partly occupied by others for some or all of that period).*
- (3) *If the interest in question is an agreement for a lease and the person goes into occupation of the part in question under a lease granted in pursuance of that agreement, sub-paragraph (2) above shall apply as if he had gone into occupation in right of the agreement.*

*Exemption for interests in land subject on 18th December
 1973 to certain leases or agreements for a lease*

- 10 (1) *In the case of a relevant chargeable building, subsection (1) of the principal section shall not apply to the interest of a person in the relevant land, on his making a claim, in so far as—*
- (a) *that interest is subject to a lease which was granted before 18 th December 1973; or*
 - (b) *that person had before that date entered into an agreement, whether unconditional or conditional, to grant a lease of the whole or part of so much of the relevant land as is subject to that interest,*
- and, in either case, the rent reserved or to be reserved under the lease, and any premium payable under or in respect of the lease or agreement, does not depend wholly or mainly on the value of the chargeable building (or of any part of that building) on the completion of the relevant development.*
- (2) *Where, in the case of a relevant chargeable building, a person having an interest in the relevant land had before 18 th December 1973 arranged (without entering into a binding contract)—*
- (a) *to grant to another person a lease of the whole or part of so much of the relevant land as is subject to that interest; or*
 - (b) *to enter into with another person such an agreement as is mentioned in sub-paragraph (1)(b) above,*
- and—*
- (i) *the arrangement was made in writing, or is evidenced by a memorandum or note thereof so made before that date; and*
 - (ii) *he grants such a lease to or (as the case may be) enters into such an agreement with that other person before 18 th December 1974 on terms which do not differ materially from the terms of the arrangement or, if they so differ, are not more beneficial to the first-mentioned person,*
- then the lease or agreement shall be treated for the purposes of sub-paragraph (1) above as if granted or entered into before 18 th December 1973.*

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

Groups of companies

- 11 (1) *For the purposes of determining whether a chargeable building falls within subsection (1) or subsection (3) of the principal section, any lease granted by a member of a group of companies to another member of the group shall be disregarded.*
- (2) *For the purposes of this Schedule, land occupied by a member of a group of companies may be treated as occupied by any other member of the group.*
- (3) *Section 272 of the Taxes Act (groups of companies: definitions) shall apply for the purposes of this paragraph as it applies for the purposes of sections 273 to 281 of that Act.*

Tied premises

- 12 (1) *For the purposes of this Chapter a person carrying on a trade who is a lessor of tied premises shall be treated as occupying those premises.*
- (2) *The preceding sub-paragraph shall be construed in accordance with section 140(2) of the Taxes Act (income tax and corporation tax on tied premises).*

Power to make assessments etc. in connection with certain deemed disposals

- 13 (1) *Where in accordance with this Schedule subsection (1) of the principal section or sub-paragraph (3) of paragraph 2 of this Schedule comes to apply to a person's interest in any land in consequence of his ceasing to occupy that land, an assessment to tax chargeable in consequence of that subsection or sub-paragraph so coming to apply to that interest may be made at any time within six years from the time when that subsection or sub-paragraph so came to apply to that interest.*
- (2) *Where—*
- (a) *under the said subsection (1) or sub-paragraph (3) a person is to be treated as having disposed of and reacquired an interest in any land; or*
 - (b) *under paragraph 8 above the said subsection (1) is deemed never to have applied to a particular interest in land,*
- all such recomputations of liability in respect of other disposals, and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the said subsection (1), sub-paragraph (3) or paragraph 8 shall be carried out.*
- (3) *The preceding provisions of this paragraph shall have effect notwithstanding any limit on the time for making assessments; and in this paragraph “tax” means capital gains tax, income tax or corporation tax.*

Postponement of payment of tax

- 14 (1) *Subject to sub-paragraph (2) below, where an interest in land is under subsection (1) of the principal section or sub-paragraph (3) of paragraph 2 of this Schedule deemed to have been disposed of, the total tax chargeable in respect of a gain accruing on the disposal may, at the option of the person liable to pay it, be paid by eight equal yearly instalments or sixteen half-yearly instalments, but subject to the payment of interest under Part IX (except sections 87 and 88) of the Taxes Management Act 1970.*

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- (2) *Where on the occasion on which the said subsection (1) or sub-paragraph (3) comes to apply to a person's interest in any land he becomes entitled to one or more capital sums (whether by way of premium or otherwise), then—*
- (a) *if the total tax chargeable in respect of a gain accruing on the disposal of that interest which under that subsection or sub-paragraph he is deemed to have made does not exceed one-half of that capital sum or of the aggregate of those capital sums, as the case may be, sub-paragraph (1) above shall not apply to the tax chargeable in respect of that gain; and*
 - (b) *if the total tax chargeable as aforesaid exceeds one-half of that capital sum or of the aggregate of those capital sums, as the case may be, sub-paragraph (1) above shall apply only to so much of the total tax as exceeds that half.*
- (3) *Where tax is payable by instalments by virtue of this paragraph, the first instalment shall be due at the expiration of twelve months from the time of the disposal and the interest on the unpaid portion of the tax shall be added to each instalment and paid accordingly; but the tax for the time being unpaid, with interest to the date of payment, may be paid at any time, and, subject to the following sub-paragraph, shall become due and payable forthwith if the interest in land deemed to have been disposed of as aforesaid is disposed of for valuable consideration under a subsequent disposal (whether or not the subsequent disposal is made by the person who is deemed to have acquired it under the first disposal).*
- (4) *Where a subsequent disposal such as is described in the preceding sub-paragraph is a part disposal of the interest in land deemed to have been disposed of as aforesaid, a fraction only of the tax for the time being unpaid shall, with interest to the date of payment, become due and payable forthwith, and that fraction shall be the fraction of the sums mentioned in the following sub-paragraph which is allowable as a deduction in computing under [Chapter II of Part II of the Capital Gains Tax Act 1979^{F57}] the amount of the gain accruing on the part disposal.*
- (5) *The sums referred to in the preceding sub-paragraph are the sums which, if so much of the interest in land there mentioned as immediately before the time of the part disposal in question remained undisposed of had been disposed of at that time, would be allowable by virtue of [section 32(1)(a) and (b) of the Capital Gains Tax Act 1979^{F57}] as a deduction in computing under [Chapter II of Part II of that Act^{F57}] the gain accruing on that disposal of that much of that interest.*
- (6) *[Section 40 of the Capital Gains Tax Act 1979^{F57}] (payment of tax by instalments) shall not apply in relation to the payment of tax in respect of a gain accruing on a disposal of an interest in land to which sub-paragraph (1) above applies.*
- (7) *In this paragraph "tax" means capital gains tax, income tax or corporation tax.*

Textual Amendments

F57 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Consideration for deemed disposal to be disregarded in certain circumstances in computing capital gain

- 15 *Where an interest in land is under subsection (1) of the principal section or sub-paragraph (3) of paragraph 2 of this Schedule deemed to have been disposed of,*

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

the consideration for which the disposal is deemed to have been made shall for the purposes of [the Capital Gains Tax Act 1979^{F58}] be disregarded if, had it been actually paid, it would under [section 31 of that Act^{F58}] fall to be excluded from the consideration for the disposal taken into account in the computation under [Chapter II of Part II of that Act^{F58}] of the gain accruing on the disposal.

Textual Amendments

F58 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 paras. 8 and 9 for 1979-80 et seq.

Deemed disposals in cases involving the grant of a lease for a premium

- 16 (1) *Where an interest in land is under subsection (1) of the principal section or paragraph 2(3) of this Schedule deemed to have been disposed of on a particular date and before that date (but after 17th December 1973) there was a part disposal of that interest by way of the grant of a lease or sub-lease at a premium, then, if income tax has become chargeable under section 80 of the Taxes Act on any amount by reference to that premium so that an exclusion or deduction of that amount falls to be made under paragraph 5(1) or (2) of [Schedule 3 to the Capital Gains Tax Act 1979^{F59}], the two following sub-paragraphs shall apply; and in those sub-paragraphs “the said interest” means the interest in land first mentioned in this sub-paragraph.*
- (2) *In computing under [Chapter II of Part II of the Capital Gains Tax Act 1979^{F59}] the amount of the gain accruing on the disposal of the said interest—*
- (a) *the consideration for the disposal shall be treated as increased by an amount equal to the premium paid in respect of the grant of the said lease or sub-lease;*
 - (b) *the sums allowable by virtue of paragraphs (a) and (b) of [section 32(1) of that Act^{F60}] as a deduction from the consideration for the disposal shall be treated as including any part of those sums which is as a result of an apportionment under [section 35 of that Act^{F60}] allowable as a deduction in computing under [the said Chapter II^{F60}] the amount of the gain accruing on the part disposal; and*
 - (c) *the gain as computed in accordance with (a) and (b) above shall then be reduced by the amount of any gain which (after any exclusion or deduction falling to be made under the said paragraph 5(1) or (2)) accrued on the part disposal, and the amount resulting from that reduction shall (subject to section 38(2) of this Act) be taken as the amount of the gain accruing on the disposal of the said interest.*
- (3) *In a case falling within sub-paragraph (1) above involving more than one part disposal in relation to which sub-paragraph (2) above is applicable, the provisions of sub-paragraph (2)(a) and (b) above shall operate cumulatively as regards those part disposals, and the reference in sub-paragraph (2)(c) above to the gain as computed in accordance with those provisions shall be construed accordingly.*
- (4) *In this and the following paragraph “premium” has the same meaning as in paragraph 5(1) and (2) of [Schedule 3 to the Capital Gains Tax Act 1979^{F60}].*

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

Textual Amendments

- F59** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 paras. 8 and 9 for 1979-80 et seq.
F60 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 paras. 8 and 9 for 1979-80 et seq.

- 17 *Where an interest in land is under subsection (1) of the principal section or paragraph 2(3) of this Schedule deemed to have been disposed of on a particular date and on that date there was a part disposal of that interest in consequence of the grant out of that interest of a lease in respect of which a premium was required under that lease or otherwise under the terms subject to which that lease was granted, that part disposal shall be disregarded for all purposes of [the Capital Gains Tax Act 1979 ^{F61}].*

Textual Amendments

- F61** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 paras. 8 and 9 for 1979-80 et seq.

- 18 *Where an interest in land consisting of a reversion on a lease is under subsection (1) of the principal section or paragraph 2(3) of this Schedule deemed to have been disposed of, paragraph 7 of [Schedule 3 to the Capital Gains Tax 1979 ^{F62}] (deduction allowable under [Section 32(1)(b) of that Act ^{F62}] in respect of amount chargeable to tax under section 80(2) of the Taxes Act as being a premium the payment of which is deemed to be required by a lease) shall not apply for the purposes of the computation of any gain accruing on the disposal.]*

Textual Amendments

- F62** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

[^{F63}SCHEDULE 10

Section 47

MATTERS ARISING OUT OF CHAPTERS I AND II OF PART III OF THIS ACT

Textual Amendments

- F63** *Sch. 10 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).*

Recovery of tax from persons not primarily liable

- 1 *The following provisions (which provide for the recovery of tax in respect of chargeable gains from persons other than those primarily liable) that is to say—*
- (a) *[sections 52(4) and 59 of the Capital Gains Tax Act 1979 ^{F64}]; and*
 - (b) *sections 266, 277, 278(5) and (6) and 279(4) and (5) of the Taxes Act,*

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shall apply in relation to development gains and income tax or corporation tax in respect of development gains as they apply in relation to chargeable gains and capital gains tax or corporation tax in respect of chargeable gains.

Textual Amendments

F64 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Postponement of payment of tax

- 2 Subject to paragraph 14(6) of Schedule 9 to this Act, [sections 8 and 40 of the Capital Gains Tax Act 1979 ^{F65}] (payment by instalments of tax in respect of chargeable gains) shall apply in relation to the payment of income tax or corporation tax in respect of development gains as they apply in relation to the payment of capital gains tax or corporation tax in respect of chargeable gains.

Textual Amendments

F65 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

Returns by relevant persons

- 3 (1) Every person who to the best of his knowledge and belief is or becomes a relevant person in relation to a relevant chargeable building shall not later than one year after the material date or, if that date fell before the passing of this Act, one year after the passing of this Act, give notice to the inspector that he is a relevant person in relation to that building.
- (2) In the preceding sub-paragraph “relevant person”, “relevant chargeable building” and “material date” have the same meaning as in Schedule 9 to this Act.
- (3) If any person fails to give a notice which he is required to give under this paragraph he shall be liable to a penalty not exceeding £100.

Information

- 4 (1) The inspector may by notice in writing require—
- (a) any company which is or which he considers may be (within the meaning of section 41 of this Act) a close company or a land-owning company; or
 - (b) the trustees of any settlement which is or which he considers may be a land settlement within the meaning of section 42 of this Act,
- to furnish him within such time (not being less than thirty days) as may be specified in the notice with such particulars as he thinks necessary for the purposes of Chapter I or II of Part III of this Act.
- (2) For the purposes of the said Chapter I or II the inspector may by notice in writing require any person who is or whom the inspector considers may be the owner of an interest in land situated in the United Kingdom to state in writing within such time as aforesaid—
- (a) whether he has any interest in the land and, if so, the nature of that interest; and

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- (b) *the name and address of any other person known or believed by that person to have an interest in that land.*
- (3) *The inspector may by notice in writing require any person who is or whom the inspector considers may be a relevant person in relation to a relevant chargeable building to furnish him within such time as aforesaid with such particulars as the inspector thinks necessary for determining whether he is a relevant person in relation to that building and, if so—*
- (a) *what is for the purposes of Chapter II of Part III of this Act the material date in relation to that building; and*
- (b) *whether paragraph 2(2) of Schedule 9 to this Act applies to his interest in the relevant land and, if so, what in relation to that interest is the subsequent date for purposes of that paragraph.*

In this sub-paragraph “relevant person” and “relevant chargeable building” have the same meaning as in the said Schedule 9.

- (4) *Any powers conferred on the inspector by the preceding provisions of this paragraph may be exercised by the Board, and references in those provisions to the inspector shall be construed accordingly.*
- (5) *In this paragraph “interest in land” has the meaning given by section 44(1) of this Act.*

Amendments of the Taxes Management Act 1970

- 5 (1) *The Taxes Management Act 1970 shall have effect subject to the following provisions of this paragraph.*
- (2) *In section 28 of that Act (non-resident companies and trusts)—*
- (a) *the references to [sections 15 and 17 of the Capital Gains Tax Act 1979 ^{F66}] shall be construed as including references to those sections as they have effect by virtue of paragraphs 2 and 3 of Schedule 8 to this Act; and*
- (b) *the references to chargeable gains and to capital gains tax shall be construed as including respectively references to development gains and to income or corporation tax in respect of development gains.*
- (3) *In section 47 of the said Act of 1970 (special jurisdiction relating to tax on chargeable gains) the reference to an appeal against an assessment to tax on chargeable gains shall be construed as including a reference to an appeal against an assessment to income tax or corporation tax in respect of development gains.*
- (4) *The power of the Board to make regulations under section 57 of the said Act 1970 shall include power to make regulations entitling persons, in addition to those who would be so entitled apart from the regulations, to appear on appeals against assessments to capital gains tax, income tax or corporation tax made by virtue of Chapter II of Part III of this Act.*
- (5) *In subsection (1)(d) of the said section 57 (power to enable any of two or more persons whose liability to capital gains tax may be affected by any matter to have the matter determined), the reference to capital gains tax shall be construed as including a reference to income tax or corporation tax in respect of development gains.*

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(6) *In section 98 of the said Act of 1970 (penalties for failure to furnish particulars etc.) there shall be added in the first column of the Table the words “Paragraph 4 of Schedule 10 to the Finance Act 1974”]*

Textual Amendments

F66 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

F67 SCHEDULE 11

Textual Amendments

F67 Sch. 11 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. V(2) notes 1, 2 of the amending Act) by 1999 c. 16, s. 139, Sch. 20 Pt. V(2)

SCHEDULE 12

Section 52.

SUBSTITUTION OF “LOCAL AUTHORITY” AS DEFINED IN SECTION 52

F77 1–5

Textual Amendments

F77 Sch. 12 paras. 1–5, repealed (savings) by Finance Act 1975 (c. 7), ss. 50, 52(2)(3), 59, Sch. 13 Pt. I

F78 7–12

Textual Amendments

F78 Sch. 12 paras. 7–12; repealed by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 844, Sch. 31.

F79 SCHEDULE 13

Textual Amendments

F79 Sch. 13, Sch. 14 Pt. V repealed by Statute Law Repeals Act 1986 (c. 12), s. 1(1), Sch. 1 Pt. III

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

SCHEDULE 14

Section 57.

ENACTMENTS REPEALED

PART I

INTEREST

Modifications etc. (not altering text)

- C6** The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
1972 c.41	The Finance Act 1972.	In section 75, subsections (3) to (5). In Schedule 11, paragraphs 2, 4 and 9.

These repeals do not apply in relation to interest excepted from subsection (3) of section 19 of this Act by subsection (4) of that section.

PART II

SHARE OPTION AND SHARE INCENTIVE SCHEMES

Modifications etc. (not altering text)

- C7** The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
1972 c.41.	The Finance Act 1972.	Section 78. In section 79, subsections (2) (a) and (30(a)). Schedule 12, except paragraphs 3 and 5 to 9 of Part VII and, in paragraph 6 of that Part, the definition of “share incentive scheme” and, in paragraphs 7 and 9 of that Part, the words “7 8 and”.

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

1973 c.51.	The Finance Act 1973.	In section 19 the words “78 and” and the words “and Schedule 12 to”. Section 20. In Schedule 8, in paragraph 5 the words “the principal Schedule”; in paragraph 7 the words from “either” to “shares; and” and the words from “in the case of subparagraph (a)” to “subparagraph (b) above”; and paragraphs 8 to 34.
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These repeals do not affect the cases excepted by section 20 of this Act.

PART III

STAMP DUTY REPEALS HAVING EFFECT FROM 1ST MAY 1974

Modifications etc. (not altering text)

C8 The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
1963 c. 25.	The Finance Act 1963.	Section 56(1) and (2).
1970 c. 24.	The Finance Act 1970.	In Schedule 7, in paragraph 6(2) the words “for “6d.” substitute “1s.” and”, paragraph 6(3), and paragraphs 10 and 11.
1972 c. 41.	The Finance Act 1972.	In section 125, subsection (1) and subsection (3) except paragraph (b).

These repeals have effect as from 1st May 1974.

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

PART IV

STAMP DUTY REPEALS HAVING EFFECT FROM 1ST AUGUST 1974

Modifications etc. (not altering text)

- C9** The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch. 14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter or number	Short Title	Extent of Repeal
<i>Enactments of the Parliament of the United Kingdom</i>		
10 & 11 Geo. 5. c. 18.	The Finance Act 1920.	Section 37(2).
10 & 11 Geo. 6. c. 35.	The Finance Act 1947.	Section 53(4).
1963 c. 25.	The Finance Act 1963.	In section 57(1), the words from “and under” to “115”.
1970 c. 24.	The Finance Act 1970.	In Schedule 7, paragraph 13(2).
<i>Provisions extending to Northern Ireland only</i>		
1963 c. 22 (N.I.).	The Finance Act (Northern Ireland) 1963.	Section 5(1) and (2). In section 6(1), the words from “and under” to “115”.
1970 c. 21 (N.I.).	The Finance Act (Northern Ireland) 1970.	In Schedule 2, in paragraph 6(2) the words “for “6d”, substitute “1s.” and,” paragraph 6(3) and paragraphs 10 and 11.
S.I. 1972/1100.	The Finance (Northern Ireland) Order 1972.	In Article 12, paragraph (1) and paragraph (3) except subparagraph (b).

These repeals take effect on 1st August 1974.

REGIONAL EMPLOYMENT PREMIUMS

^{F80}PART V

Textual Amendments

- F80** Sch. 13, Sch. 14 Pt. V repealed by Statute Law Repeals Act 1986 (c. 12), s. 1(1), Sch. 1 Pt. III

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

PART VI

MISCELLANEOUS

Modifications etc. (not altering text)

C10 The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
1970 c.10.	The Income and Corporation Taxes Act 1970	<p>In section 122(2), paragraphs (b) and (c) and the “or” preceding them.</p> <p>In section 188(2), paragraph (b) and the words following paragraph (c).</p> <p>In section 280(5), the words from “if” to “group” (where first occurring).</p> <p>In section 335(4), the words from “but” to the end.</p> <p>In section 338(2), the word “registered”.</p> <p>In section 353, subsections (2) and (3).</p> <p>In Schedule 8, in paragraph 6 the words from “and not” to “of office”.</p>
1971 c.68	The Finance Act 1971.	<p>Section 15(2).</p> <p>Section 31(2).</p> <p>In Schedule 3, paragraph 12(2).</p>
1972 c.41.	The Finance Act 1972.	<p>Section 65(1).</p> <p>Section 93(8).</p> <p>Section 123.</p> <p>In Schedule 6, the word “full-time” wherever it occurs in paragraph 7(4) and (5).</p>
1973 c.51.	The Finance Act 1973.	<p>Section 3.</p> <p>Section 12(1).</p> <p>Section 53(5)(a).</p>

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

PART VII

SPENT ENACTMENTS

Modifications etc. (not altering text)

C11 The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch. 14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 5. c. 18.	The Finance Act 1920.	Section 37(3).
1963 c. 25.	The Finance Act 1963.	Section 58.
1968 c. 44.	The Finance Act 1968.	Section 23(3).
1970 c. 9.	The Taxes Management Act 1970.	The proviso to section 47(2).
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In Schedule 15, in Part II of the Table set out in paragraph 11, the entry relating to the Ministerial Salaries and Members' Pensions Act 1965.
1971 c. 68.	The Finance Act 1971.	In section 15, subsections (3) and (4). In Schedule 6, paragraph 69.
1972 c. 41.	The Finance Act 1972.	Section 65(3).

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1974.