

## SCHEDULES

### SCHEDULE 6

Section 34.

#### CAPITAL GAINS : ELECTION FOR POOLING

##### *Interpretation*

- 1 (1) In this Schedule—
- (a) "the principal Act" means the Capital Gains Tax Act 1979;
  - (b) " the 1982 Act" means the Finance Act 1982 ;
  - (c) " the qualifying period " has the meaning assigned to it by section 86(1)(b) of the 1982 Act; and
  - (d) " relevant allowable expenditure " has the meaning assigned to it by subsections (2)(b) and (3) of section 86 of the 1982 Act
- (2) For the purposes of this Schedule, " qualifying securities " are securities, as defined in section 88(9) of the 1982 Act, which are neither—
- (a) gilt-edged securities, as defined in Schedule 2 to the principal Act; nor
  - (b) securities which on 6th April 1965 were held by the company making the election concerned and which, disregarding the effect of sections 88 and 89 of the 1982 Act, would for the time being be excluded from the effect of section 65 of the principal Act by virtue of subsection (1)(b) of that section.

##### *Election for pooling*

- 2 (1) An election under this Schedule shall be made by notice in writing to the inspector not later than the expiry of two years from the end of the accounting period in which the first relevant disposal is made or such further time as the Board may allow.
- (2) For the avoidance of doubt it is hereby declared—
- (a) that where a company makes an election under this Schedule with respect to qualifying securities which it holds solely and beneficially, that election does not apply to qualifying securities which it holds in another capacity; and
  - (b) that an election under this Schedule is irrevocable.
- (3) In this paragraph the " first relevant disposal", in relation to an election, means the first disposal after 31st March 1982 by the company making the election of qualifying securities which are held by it solely and beneficially.

##### *Effect of election*

- 3 (1) The provisions of this paragraph have effect where an election is made under this Schedule.
- (2) The election shall have effect with respect to all disposals after 31st March 1982 of qualifying securities held solely and beneficially by the company making the election.

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- (3) For the purposes of the principal Act, qualifying securities—
- (a) which are of the same class, and
  - (b) which have been held by the company making the election for such a length of time that, on a disposal of them, the disposal would not be regarded as occurring within the qualifying period,
- shall be regarded as indistinguishable parts of a single asset (in this paragraph referred to as a holding) diminishing or growing on the occasions on which some of the securities of the class in question are disposed of or additional securities of the class in question which have been previously acquired become held as mentioned in paragraph (b) above.
- (4) Without prejudice to the generality of sub-paragraph (3) above, a disposal of securities in a holding, other than the disposal outright of the entire holding, is a disposal of part of an asset and the provisions of the principal Act relating to the computation of a gain accruing on a disposal of part of an asset shall apply accordingly.
- (5) In accordance with the preceding provisions of this paragraph, where an election is made under this Schedule, the holding shall come (or, as the case may be, shall be treated as having come) into being—
- (a) on the first anniversary of the first acquisition of qualifying securities of a particular description ; or
  - (b) if Part II of Schedule 13 to the 1982 Act applies so that " the holding " for the purposes of this paragraph consists of or includes what is "the holding" or "the reduced holding " referred to in paragraph 8 or paragraph 9 of that Schedule, on 1st April 1982.
- (6) In its application to a holding, subsection (1) of section 86 of the 1982 Act (conditions for the existence of the indexation allowance) shall have effect as if the condition in paragraph (b) (the qualifying period) were always fulfilled.
- (7) Shares or securities of a company shall not be treated for the purposes of this Schedule as being of the same class unless they are so treated by the practice of The Stock Exchange or would be so treated if dealt with on The Stock Exchange.

*The 1982 identification rules*

- 4 (1) The provisions of sections 88 and 89 of, and Part II of Schedule 13 to, the 1982 Act shall have effect for determining whether qualifying securities have been held as mentioned in paragraph (b) of sub-paragraph (3) of paragraph 3 above but, subject to that, those provisions shall not apply to securities forming part of the single asset referred to in that sub-paragraph.
- (2) Any reference in sub-paragraph (1) above to qualifying securities includes a reference to a single asset consisting of qualifying securities which continued in existence on and after 1st April 1982 by virtue of paragraph 8 or paragraph 9(3)(a) of Schedule 13 to the 1982 Act.

*The indexation allowance*

- 5 (1) Where an election has been made under this Schedule, the following provisions of this Schedule have effect in place of the provisions of section 87 of the 1982 Act for the purpose of computing the indexation allowance on a disposal to which section 86

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of that Act applies of the single asset (in the following provisions of this Schedule referred to as " the holding ") which by virtue of paragraph 3(3) above results from the election.

- (2) On any disposal of the holding falling within sub-paragraph (1) above, other than a disposal of the whole of it.—
    - (a) the unindexed and indexed pools of expenditure shall each be apportioned between the part disposed of and the remainder in the same proportions as, under the principal Act, the relevant allowable expenditure is apportioned ; and
    - (b) the indexation allowance is the amount by which the portion of the indexed pool which is attributed to the part disposed of exceeds the portion of the unindexed pool which is attributed to that part.
  - (3) On a disposal falling within sub-paragraph (1) above of the whole of the holding, the indexation allowance is the amount by which the indexed pool of expenditure at the time of the disposal exceeds the unindexed pool of expenditure at that time.
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- (1) Subject to sub-paragraph (2) below, in relation to the holding, the unindexed pool of expenditure is at any time the amount which would be the aggregate of the relevant allowable expenditure in relation to a disposal of the whole of the holding occurring at that time.
  - (2) Where any item of the relevant allowable expenditure referred to in sub-paragraph (1) above was incurred after the time at which the securities to which it relates were acquired, it shall not be taken into account for the purpose of determining the unindexed pool of expenditure at any time before the expiry of the period of twelve months beginning on the date on which it was incurred; but at the expiry of that period the unindexed pool of expenditure shall be increased, subject to sub-paragraph (3) below, by the addition of a sum equal to it.
  - (3) If, before the expiry of the period of twelve months referred to in sub-paragraph (2) above, there is a disposal of any of the securities to which the item of relevant expenditure referred to in that sub-paragraph relates, only the portion of that expenditure which is attributable to the securities which are not so disposed of shall be added to the unindexed pool of expenditure by virtue of sub-paragraph (2) above.
  - (4) If, by virtue of any enactment, any item of the relevant allowable expenditure referred to in sub-paragraph (1) above falls to be reduced by reference to a relevant event, within the meaning of paragraph 4 of Schedule 13 to the 1982 Act, occurring after the time at which the securities to which it relates were acquired, that reduction shall not be taken into account for the purpose of determining the unindexed pool of expenditure until the expiry of the period of twelve months beginning on the date of the relevant event in question.
  - (5) If, before the expiry of the period of twelve months referred to in sub-paragraph (4) above, there is a disposal of any of the securities to which the item of relevant expenditure referred to in that sub-paragraph relates, the amount by which the unindexed pool of expenditure falls to be reduced at the expiry of that period shall itself be reduced so that only that portion of the reduction which is attributable to the securities which are not so disposed of shall then be made in the unindexed pool of expenditure.
  - (6) Subsection (5) of section 87 of the 1982 Act (date on which expenditure was incurred) and any provision of Schedule 13 to that Act which, in particular

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circumstances, displaces that subsection shall apply for the purposes of sub-paragraph (2) above as they apply for the purpose of computing the indexation allowance in accordance with that section.

- 7 (1) The provisions of this paragraph have effect, subject to paragraphs 9 and 10 below, for determining, in relation to the holding, the indexed pool of expenditure at any time.
- (2) The indexed pool of expenditure shall come into being at the time that the holding comes into being and shall at that time consist of the aggregate of—
- (a) the unindexed pool of expenditure at that time ; and
  - (b) any indexation allowance which, by virtue of paragraph 7(3) of Schedule 13 to the 1982 Act (options), would have applied to a disposal of the whole of the holding at that time.
- (3) Any reference in the following provisions of this Schedule to an operative event is a reference to any event (whether a disposal, the expiry of a period of twelve months from an acquisition or otherwise) which has the effect of reducing or increasing the unindexed pool of expenditure attributable to the holding.
- (4) Whenever an operative event occurs.—
- (a) there shall be added to the indexed pool of expenditure the indexed rise, as calculated under paragraph 8 below, in the value of that pool since the last operative event or, if there has been no previous operative event, since the pool came into being; and
  - (b) if the operative event results in an increase in the unindexed pool of expenditure then, in addition to any increase under paragraph (a) above, the same increase shall be made to the indexed pool of expenditure ;
  - (c) if the operative event is a disposal resulting in a reduction in the unindexed pool of expenditure, then, whether or not it is a disposal to which section 86 of the 1982 Act applies, the indexed pool of expenditure shall be reduced in the same proportion as the unindexed pool is reduced ; and
  - (d) if the operative event results in a reduction in the unindexed pool of expenditure but is not a disposal, the same reduction shall be made to the indexed pool of expenditure.
- (5) Where the operative event is a disposal to which section 86 of the 1982 Act applies.—
- (a) any addition under paragraph (a) of sub-paragraph (4) above shall be made before the calculation of the indexation allowance under paragraph 5 above; and
  - (b) the reduction under paragraph (c) of that sub-paragraph shall be made after that calculation.
- 8 (1) At the time of any operative event, the indexed rise in the indexed pool of expenditure is a sum produced by multiplying the value of that pool immediately before the event by a figure expressed as a decimal and determined, subject to sub-paragraphs (2) and (3) below, by the formula—

$$\frac{RE - RL}{RL}$$

where—

RE is the retail prices index for the month in which the operative event occurs; and

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RL is the retail prices index for the month in which occurred the immediately preceding operative event or, if there has been no such event, in which the indexed pool of expenditure came into being.

- (2) If RE, as denned in sub-paragraph (1) above, is equal to or less than RL, as so denned, the indexed rise is nil.
- (3) If the figure determined in accordance with the formula in sub-paragraph (1) above would, apart from this sub-paragraph, be a figure having more than three decimal places, it shall be rounded to the nearest third decimal place.

*Transfers on a no gain/no loss basis*

- 9 (1) This paragraph applies in any case where—
  - (a) a company (in this paragraph referred to as " the first company ") disposes of securities to another company, (in this paragraph referred to as " the second company ") which has made an election under this Schedule, and
  - (b) the disposal is one to which section 267 or section 273 of the Taxes Act applies (transfers on a company reconstruction etc. and within a group of companies to be on a no gain/no loss basis), and
  - (c) the disposal by the first company takes place outside the qualifying period.
- (2) Nothing in this paragraph affects the operation of paragraph 2 of Schedule 13 to the 1982 Act, but paragraph 3 of that Schedule shall have effect subject to the provisions of this Schedule.
- (3) On the disposal referred to in sub-paragraph (1) above (which is the initial disposal within the meaning of the said paragraph
  - (a) the consideration for the disposal shall become part of the second company's indexed pool of expenditure ; and
  - (b) so much of that consideration as does not consist of the indexation allowance on the disposal shall become part of the second company's unindexed pool of expenditure.

*Consideration for options*

- 10 (1) If, in a case where sub-paragraph (4)(b) of paragraph 7 above applies, the increase in the unindexed pool of expenditure is, in whole or in part, attributable to the cost of acquiring an option binding the grantor to sell (in this paragraph referred to as " the option consideration "), then, in addition to any increase under paragraph (a) or paragraph (b) of sub-paragraph (4) of paragraph 7 above, the indexed pool of expenditure shall be increased by an amount equal to the indexed rise in the option consideration, as determined under sub-paragraph (2) below.
- (2) The indexed rise in the option consideration is a sum produced by multiplying the consideration by a figure expressed as a decimal and determined, subject to sub-paragraphs (3) and (4) below, by the formula—

$$\frac{RO - RA}{RA}$$

where—

RO is the retail prices index for the month in which falls the first anniversary of the date on which the option is exercised ; and

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RA is the retail prices index for the month in which falls the first anniversary of the date on which the option was acquired or, if it is later, March 1982.

- (3) If RO, as defined in sub-paragraph (2) above, is equal to or less than RA, as so denned, the indexed rise is nil.
- (4) If the figure determined in accordance with the formula in sub-paragraph (2) above would, apart from this sub-paragraph, be a figure having more than three decimal places, it shall be rounded to the nearest third decimal place.

*Supplementary*

- 11 All such adjustments shall be made, whether by way of discharge or repayment of tax, or the making of assessments or otherwise, as are required to give effect to an election under this Schedule.