

SCHEDULES

SCHEDULE 5

Section 20.

MARRIED COUPLE'S ALLOWANCE ETC.

- 1 The Taxes Act 1988 shall be amended in accordance with paragraphs 2 to 8 below.
- 2 The following sections shall be substituted for section 257B (transfer of relief under section 257A)—

“257BA Elections as to transfer of relief under section 257A

- (1) A woman may elect that for any year of assessment for which her husband is entitled to relief under section 257A—
 - (a) she shall be entitled (on making a claim)
to deduct from her total income one half of the amount specified in section 257A(1) for that year, and
 - (b) the amount that he is entitled to deduct under section 257A shall be reduced accordingly.
- (2) A husband and wife may jointly elect that for any year of assessment for which the husband is entitled to relief under section 257A—
 - (a) she shall be entitled (on making a claim) to deduct from her total income the amount specified in section 257A(1) for that year, and
 - (b) the amount that he is entitled to deduct under section 257A shall be reduced accordingly (to nil, unless section 257A(2) or (3) applies to him).
- (3) A man may elect that for any year of assessment for which his wife is entitled to relief by virtue of an election under subsection (2) above—
 - (a) he shall be entitled (on making a claim) to deduct from his total income one half of the amount specified in section 257A(1) for that year (in addition to the amount, if any, that he is already entitled to deduct under section 257A), and
 - (b) the amount that she is entitled to deduct by virtue of that election shall be reduced accordingly.
- (4) An election under this section shall be made by giving notice to the inspector in such form as the Board may determine and—
 - (a) subject to subsections (5) and (7) below, shall be made before the first year of assessment for which it is to have effect, and
 - (b) shall have effect for that and each succeeding year of assessment for which the husband is entitled to relief under section 257A, subject to its withdrawal under subsection (8) below or a subsequent election under this section.

Status: This is the original version (as it was originally enacted).

- (5) An election may be made during the first year of assessment for which it is to have effect if that is the year of assessment in which the marriage takes place.
- (6) Where subsection (5) above applies, the references in subsections (1)(a), (2)(a) and (3)(a) above to the amount specified for the year of assessment in section 257A(1) shall be read as references to that amount reduced in accordance with section 257A(6).
- (7) An election may be made within the first thirty days of the first year of assessment for which it is to have effect if before that year the inspector has been given written notification that it is intended to make the election.
- (8) The person or persons by whom an election was made may withdraw it by giving notice to the inspector in such form as the Board may determine; but the withdrawal shall not have effect until the year of assessment after the one in which the notice is given.
- (9) A woman shall not be entitled by virtue of an election under this section to more than one deduction for any year of assessment.

257BB Transfer of relief under section 257A where relief exceeds income

- (1) Where—
 - (a) a man is entitled to relief under section 257A, but
 - (b) the amount that he is entitled to deduct exceeds what is left of his total income after all other deductions have been made from it,
 his wife shall be entitled to deduct from her total income the amount of the excess (in addition to any amount she is entitled to deduct by virtue of an election under section 257BA).
- (2) Subsection (1) above shall not apply for a year of assessment unless the claimant's husband gives notice to the inspector that it is to apply.
- (3) Where—
 - (a) a woman is entitled to relief by virtue of an election under section 257BA, but
 - (b) the amount that she is entitled to deduct exceeds what is left of her total income after all other deductions have been made from it,
 her husband shall be entitled to deduct from his total income the amount of the excess (in addition to the amount, if more than nil, that he is already entitled to deduct under section 257A).
- (4) Subsection (3) above shall not apply for a year of assessment unless the claimant's wife gives notice to the inspector that it is to apply.
- (5) Any notice under subsection (2) or (4) above—
 - (a) shall be given not later than six years after the end of the year of assessment to which it relates,
 - (b) shall be in such form as the Board may determine, and
 - (c) shall be irrevocable.

Status: This is the original version (as it was originally enacted).

- (6) In determining for the purposes of this section the amount that is left of a person's total income for a year of assessment after other deductions have been made from it, there shall be disregarded any deduction made—
- (a) on account of any payments of loan interest which become due in that year and to which section 369 applies,
 - (b) under section 289,
 - (c) on account of any payments to which section 593(2) or 639(3) applies,
 - (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies, or
 - (e) on account of any payments to which section 32(4) of the Finance Act 1991 applies.”

3 In section 257D (transitional relief: husband with excess allowances) in subsection (10) for “section 257B(3)” there shall be substituted “section 257BB(2)”.

4 In section 257F (transitional relief: separated couples), for “section 257B” there shall be substituted “section 257BA, section 257BB”.

5 (1) Section 259 (additional relief in respect of children) shall be amended as follows.

(2) In subsection (2) for “section 260” there shall be substituted “sections 260 and 261A”.

(3) The following subsection shall be inserted after subsection (3)—

“(3A) A person shall not be entitled to relief under this section by virtue of subsection (1)(a) or (b) above for a year of assessment if that is the year in which he and his spouse separate (as defined in section 261A(6)).”

6 The following section shall be inserted after section 261—

“261A Additional relief in respect of children for year of separation

(1) A person who proves that a qualifying child is resident with him for any period—

- (a) after he and his spouse separate, and
- (b) in the year of assessment in which that separation occurs,

shall be entitled to a deduction from his total income of an amount equal to that specified in section 257A(1) for the year.

(2) But if the person is entitled to relief for the year of assessment under section 257A (including by virtue of an election under section 257BA) the amount that he is entitled to deduct under subsection (1) above shall be reduced by the amount of that relief (to nil where the amount of that relief equals or exceeds it).

(3) Subsection (1) above shall not apply to a man who is entitled to relief under section 259 by virtue of subsection (1)(c) of that section.

(4) A person is entitled to only one deduction under subsection (1) above irrespective of the number of qualifying children resident with him.

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- (5) Where for any year of assessment a person is entitled to relief under this section and another person is entitled to relief in connection with the same child under section 259 or this section—
- (a) the total amount of the relief to which those persons are entitled shall not exceed the amount specified in section 257A(1) for that year,
 - (b) section 260(3) to (5) shall apply for the purpose of apportioning that total amount between the persons (and the reference in section 260(4) to section 259 shall be taken to include a reference to this section), and
 - (c) the deduction to which each of them is entitled under section 259 or this section shall be equal to so much of that amount as is apportioned to him (subject, in the case of relief under this section, to subsection (2) above).
- (6) In this section, “separate” means—
- (a) separate under an order of a court of competent jurisdiction, or by deed of separation, or
 - (b) separate in such circumstances that the separation is likely to be permanent.
- (7) Subsections (5) to (9) of section 259 shall apply for the purposes of this section as they apply for the purposes of that section.”

7 The provisions of section 262 (widow's bereavement allowance) shall become subsection (1) of that section and the following subsections shall be added after that subsection—

- “(2) Where a widow would (but for this subsection) be entitled for a year of assessment—
- (a) to a deduction from her total income under subsection (1)(a) above, and
 - (b) to a deduction from her total income by virtue of an election under section 257BA,
- the deduction mentioned in paragraph (b) above shall instead be made (without a claim being made) from her late husband's total income for the year.
- (3) If the deduction mentioned in subsection (2)(b) above exceeds what is left of the husband's total income for the year after all other deductions have been made from it, the widow shall be entitled to deduct from her total income the amount of the excess (in addition to the deduction to which she is entitled by virtue of subsection (1) above and without making a further claim).
- (4) In determining for the purposes of this section the amount that is left of a person's total income for a year of assessment after other deductions have been made from it, there shall be disregarded any deduction made—
- (a) on account of any payments of loan interest which become due in that year and to which section 369 applies,
 - (b) under section 289,
 - (c) on account of any payments to which section 593(2) or 639(3) applies,

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- (d) on account of any payments to which section 54(5) of the Finance Act 1989 applies, or
 - (e) on account of any payments to which section 32(4) of the Finance Act 1991 applies.”
- 8 (1) Section 265 (blind person's allowance) shall be amended as follows.
- (2) In subsection (3)(b), for “257A or” there shall be substituted “257A (including by virtue of an election under section 257BA) or under”.
 - (3) In subsection (4), the words from “(and” onwards shall be omitted.
 - (4) In subsection (6) for “section 257B(3)” there shall be substituted “section 257BB(2)”.
- 9 The Taxes Management Act 1970 shall be amended as follows.
- (2) In section 36 (fraudulent or negligent conduct) the following subsection shall be inserted after subsection (3)—
 - “(3A) In subsection (3) above, “claim or application” does not include an election under section 257BA of the principal Act (elections as to transfer of married couple's allowance).”
 - (3) In section 37A (effect of assessment where allowances transferred) for “257B” there shall be substituted “257BB”.
 - (4) In section 43A (further assessments: claims etc.) after subsection (2) there shall be inserted—
 - “(2A) In subsection (2) above, “claim, election, application or notice” does not include an election under section 257BA of the principal Act (elections as to transfer of married couple's allowance).”
- 10 This Schedule shall apply in relation to tax for the year 1993-94 and subsequent years of assessment.