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SCHEDULES

NINTH SCHEDULE

MISCELLANEOUS RULES APPLICABLE TO CASE VII OF SCHEDULE D

Additional provisions as to computation of gains

- 17 (1) Where a single bargain comprises two or more transactions whereby assets are disposed of, those transactions shall be treated for purposes of section thirteen of this Act as a single disposal; and where separate considerations are agreed or purport to be agreed for any two or more transactions comprised in one bargain (whether transactions whereby assets are disposed of or not), those considerations shall be treated as together constituting an entire consideration for the transactions, and shall be apportion-able between them accordingly.

- (2) Where an individual and the wife or husband of that individual, or a body of persons and a person having control of it, or two bodies of persons under common control, enter into associated transactions, sub-paragraph (1) above shall apply as if the transaction were comprised in a single bargain (" body of persons " for this purpose including a partnership):

Provided that this sub-paragraph shall not apply so as to treat as an entire consideration considerations given or received by different persons, unless they are given to or received from a single person or persons in relation to whom they can by virtue of this sub-paragraph be treated as an entire consideration.

- (3) In the case of an acquisition and disposal of land no deduction shall be made in respect of maintenance expenditure incurred by any person—
- (a) in computing the gain accruing to that person from the acquisition and disposal either—
- (i) for the purposes of the profits tax (if any) chargeable on the disposal;
or
- (ii) for the purposes of sub-paragraph (3) of paragraph 7 of this schedule ; or
- (b) in computing for any purpose of this Schedule the amount which would secure that on that person's disposal of the land neither a gain nor a loss accrued to him ;

and maintenance expenditure incurred by the person chargeable which falls to be taken into account for other purposes of Case VII shall not be taken into account under section one hundred and one or paragraph (g) of subsection (1) of section one hundred and seventy-six of the Income Tax Act, 1952, but where it has been taken into account under either of those enactments, any necessary adjustment of that person's liability to tax may be made by means of an additional assessment or otherwise and for that purpose the amount of any tax repaid by reason of its having been taken into account may be charged on him under Case VI of Schedule D and recovered accordingly.

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In this sub-paragraph references to maintenance expenditure incurred by any person are references to any expenditure so incurred which could be taken into account under section one hundred and one of the Income Tax Act, 1952, in computing the cost to him or any other person of maintenance, repairs, insurance and management of the land.

- (4) No deduction shall be made in computing the gain to the person chargeable for any expenditure if section four hundred and twenty-five (assurance companies and investment companies) of the Income Tax Act, 1952, applies to that person and relief could be given under that section in respect of the expenditure as expenses of management.

In this sub-paragraph the references to section four hundred and twenty-five of the Income Tax Act, 1952, include references to that section as applied by section four hundred and thirty-eight of that Act (savings banks and certain industrial and provident societies) or by section sixty-nine of the Finance Act, 1960 (unit trust schemes).

- (5) Where, in the case of any asset, the person chargeable receives or is entitled to claim any capital allowances with reference to expenditure relating to the asset, the amount of the allowances shall be treated for the purpose of computing the said gain as a trading receipt of the adventure, in so far as it exceeds the amount or aggregate amount on which any balancing charges fall to be made on him in respect of the allowances (subject to a just apportionment where the adventure does not relate to the whole of his interest in the asset).

In this sub-paragraph " capital allowance " means an allowance under Part X of the Income Tax Act, 1952, but not including an investment allowance.