

NINTH SCHEDULE

MISCELLANEOUS RULES APPLICABLE TO CASE VII OF SCHEDULE D

Discharge and assignment of contracts; options and other conditional contracts, etc.

- 1 (1) Save as provided by paragraph 2 below, a person's acquisition or disposal of an asset by a contract in that behalf shall be disregarded for purposes of Case VII if—
 - (a) the contract is discharged by mutual consent or by operation of law; or
 - (b) default is made in carrying out the contract and by reason of that default there is no conveyance or transfer to implement the contract, whether by or to the person originally making the contract or another ; or
 - (c) the contract is conditional and the condition is not satisfied.
- (2) Where a person disposes of an asset, and the whole or part of the consideration is irrecoverable, the amount irrecoverable shall be disregarded in so far as it is not realised by the disposal in whole or in part of the right to the consideration; and if the consideration is abated for any error in or default under the contract, Chapter II of Part II of this Act shall apply as if the abated consideration had originally been contracted for.
- (3) If in the case of a conditional contract to acquire or dispose of an asset the condition is satisfied (and in particular if in the case of a contract conferring an option the option is exercised), then subject to the following sub-paragraphs the acquisition or disposal of the asset by the contract shall be treated as taking place at the time when the condition is satisfied.
- (4) If the disposal of an asset by a conditional contract is made for a consideration not depending wholly or mainly on the value of the asset at the time the condition is satisfied the contract shall in relation to the disposal be treated (on the condition being satisfied) as if it had never been conditional.
- (5) Where a contract for the disposal of an asset is discharged by mutual consent, but is replaced by a new contract for its disposal to the same person or to another in his place, the disposal by the new contract shall be treated as if it had taken place at the time when the disposal by the previous contract is to be treated as having taken place, and if the previous contract was a conditional contract, the condition shall for that purpose be treated as satisfied by the making of the new contract.
- (6) Nothing in sub-paragraphs (3) to (5) above shall apply in relation to a contract entered into before the tenth day of April, nineteen hundred and sixty-two.
- 2 (1) Subject to paragraph 18 of this Schedule, a person acquiring a right under a subsisting contract to acquire or dispose of an asset shall be treated as thereby acquiring or disposing of the asset to the like extent as if he had then entered into a new contract conferring that right (his undertaking the obligations under the subsisting contract not being treated as consideration given by him for the acquisition of the right, but any consideration so given being treated, in relation to his acquisition and disposal of the asset, as an expense of acquiring or disposing of it).
- (2) Notwithstanding anything in subsection (1) of section twelve of this Act a person disposing of the right under a subsisting contract to acquire or dispose of an asset shall not be treated as thereby disposing of the asset nor, in a case not within sub-paragraph (3) below, as having acquired or disposed of it by that contract.

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

- (3) Subject to paragraph 18 of this Schedule, where a person disposes of an asset to another subject to and with the benefit of any subsisting contract for its disposal to a third person, then, if the contract is not conditional or the condition is satisfied at the (time of the later disposal.—
- (a) he shall not be treated as thereby making any new disposal of the asset except to the extent to which it was not disposed of by that contract, and so much of the consideration for the later disposal as is attributable to the right to receive the consideration under that contract shall be disregarded ; and
 - (b) he shall be treated as thereby completing the disposal by that contract, and that disposal shall not under paragraph 1 above be treated as affected by any subsequent discharge of or default under the contract or abatement of the consideration.
- (4) A person's right under a contract entered into by him to acquire or dispose of an asset shall, in relation to any disposal by him of that right, be treated as having been acquired by him on the making of the contract for any consideration given by him for having that right (other than his agreement to acquire or dispose of the asset); and where a person gives any consideration to be discharged from a contract to acquire or dispose of an asset, the person to whom it is given shall be treated as disposing for that consideration of his right under the contract to dispose of or acquire the asset.
- (5) Where a person dies after entering into a conditional contract for the acquisition or disposal of an asset (the condition not being satisfied at the time of his death), then—
- (a) in the case of a contract to acquire the asset nothing in this paragraph shall apply so as to treat any other person as acquiring the asset by reason of that contract on the condition being satisfied, except that sub-paragraph (1) shall apply in relation to any person acquiring from the personal representatives or legatee the right under the contract to acquire the asset; and
 - (b) in the case of a contract to dispose of the asset, nothing in this or the last foregoing paragraph shall apply so as to treat him as disposing of the asset under the contract on the condition being satisfied.

Gifts, settled property, and bargains not at arm's length

- 3 (1) Where a person resident and ordinarily resident in the United Kingdom either—
- (a) disposes by way of gift of an asset previously acquired by him, but does so without there being (within the meaning of Case VII) an acquisition and disposal by him ; or
 - (b) disposes by way of gift of an asset acquired by him only as legatee ;
- then, so far as relates to the interest taken by the donee, the donee shall be treated as if the donor's acquisition of the asset had been his acquisition of it.
- (2) Subject to sub-paragraph (4) below, where in a case not falling within paragraph (a) or (b) of sub-paragraph (1) above a person resident and ordinarily resident in the United Kingdom disposes by way of gift of an asset acquired or to be acquired by him, and the donee is also resident and ordinarily resident in the United Kingdom, then on an election being made in that behalf—
- (a) the donor shall not be chargeable under Case VII in respect of any acquisition and disposal by reference to that disposal ; and
 - (b) the donee shall be treated as if the donor's acquisition of the asset had been his acquisition of it, but so that the amount of the consideration for which

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

he is treated as acquiring the asset shall not by virtue of this sub-paragraph be increased.

- (3) An election under sub-paragraph (2) above shall be made by the donor and the donee jointly, except that it may be made by the donee alone if the donor would not apart from that sub-paragraph be chargeable to tax under Case VII in respect of the gain (if any) treated as accruing to him from his acquisition and disposal of the asset.
 - (4) Sub-paragraph (2) above shall not apply in relation to a gift of shares where the donor is, but the donee is not, in relation to his acquisition and disposal of the shares, within section fourteen of this Act (" shares " having for this purpose the same meaning as in that section).
 - (5) A person shall not be chargeable under Case VII in respect of any acquisition and disposal by reference to a disposal made to any charity or Association within subsection (1) of section fifteen of this Act if the disposal is by way of gift for the purposes of the charity or Association.
- 4
- (1) Subsection (3) of section twelve of this Act and paragraph 3 above shall apply in relation to a gift in settlement as a gift to the trustees of the settlement, and shall so apply notwithstanding that the settlor is one of the trustees or the sole trustee of the settlement; but if the settlor or the settlor's wife or husband has, or can by any means (whether or not requiring any consent or concurrence) obtain for the settlor or for the settlor's wife or husband, any beneficial interest in the settled property or the income from it, no loss treated as accruing to the settlor by reason of the gift in settlement shall be allowable under Case VII.
 - (2) Subject to sub-paragraph (3) below, where under a settlement a person becomes absolutely entitled as against the trustee to settled property (whether alone or jointly with another), he shall be chargeable by reference to any subsequent disposal of the property by him as if its acquisition by the trustees had been his acquisition of it.
 - (3) Where for a consideration in money or money's worth a person becomes absolutely entitled as against the trustee to settled property, or two or more persons jointly become so entitled, either by the exercise of a power of appointment under the settlement or by acquiring the interests of persons who were together so entitled and acted in concert in disposing of their interests to him or them, then notwithstanding anything in subsection (8) of section twelve of this Act—
 - (a) the person or persons becoming so entitled shall, on disposing of the property, be chargeable under Case VII by reference to that acquisition of it, if there is an acquisition and disposal by him or them ; and
 - (b) the person exercising the power or persons disposing of their interests under the settlement shall be chargeable under Case VII by reference to that disposal of the property, as if its acquisition by the trustees had been his or their acquisition of it.
- 5
- (1) Subject to sub-paragraph (4) below, where a person resident and ordinarily resident in the United Kingdom disposes otherwise than by way of bargain at arm's length (but not by way of gift) of an asset acquired or to be acquired by him so that there is an acquisition and disposal of the asset by him, and the person acquiring the asset on that disposal is also resident and ordinarily resident in the United Kingdom, then on an election being made in that behalf the person disposing of the asset and the person acquiring it on that disposal shall be treated as doing so for a consideration equal to whichever is the higher of—
 - (a) the actual consideration ; and

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

- (b) such amount as will secure that neither a gain nor a loss accrues to the person disposing of the asset from his acquisition and disposal of it:

Provided that this sub-paragraph shall not apply so as to increase the amount of the consideration for which those persons are respectively treated as disposing of and acquiring the asset.

- (2) An election under this paragraph shall be made jointly by the person disposing of the asset and the person acquiring it, except that an election may be made by the person disposing of the asset alone if the person acquiring it would not, on disposing of it, be chargeable to tax under Case VII in respect of the gain (if any) accruing to him from his acquisition and disposal of it.
- (3) In a case falling within paragraph (b) of subsection (3) of section twelve of this Act, the amount referred to in paragraph (b) of sub-paragraph (1) above shall be taken to be higher than the actual consideration referred to in paragraph (a).
- (4) This paragraph shall not apply to a disposal of assets by a company by way of distribution in respect of shares in the company, nor shall it apply where the person disposing of the asset is, but the person acquiring it is not, in relation to his acquisition and disposal of the asset, within section fourteen of this Act.
- 6 (1) Where, in the case of a man and his wife living with him, the man disposes of an asset acquired or to be acquired by him to the wife, or the wife disposes of an asset acquired or to be acquired by her to the man, then—
- (a) the one making the disposal shall not be chargeable under Case VII in respect of an acquisition and disposal by reference to that disposal; and
- (b) the one to whom the disposal is made shall be treated as if the other's acquisition of the asset had been his or her acquisition of it.
- (2) Where a company resident and ordinarily resident in the United Kingdom disposes of an asset acquired or to be acquired by it to another such company at a time when either is the subsidiary of the other, or both are subsidiaries of a third company ("subsidiary" having for this purpose the meaning assigned to it for certain purposes of the profits tax by section forty-two of the Finance Act, 1938), then—
- (a) the first-mentioned company shall not be chargeable under Case VII in respect of an acquisition and disposal by reference to that disposal; and
- (b) the other company shall be treated as if the first-mentioned company's acquisition of the asset had been its acquisition of it.
- (3) Where a person disposes of an asset to a company of which that person has control, or a company disposes of an asset to a person having control of the company, no loss accruing to the one making the disposal from the acquisition and disposal of the asset shall be allowable under Case VII otherwise than by deduction from any gain accruing on the disposal of assets to the other while the person in question has control of the company; and for the purposes of this sub-paragraph an individual shall be treated as having control of a company if the individual's wife or husband has control of it, or if they together have control of it.

Appropriations to and from stock in trade

- 7 (1) Subject to sub-paragraph (3) below, where an asset acquired by a person otherwise than as trading stock of a trade carried on by him is appropriated by him for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise) and, if he had then sold the asset for its market value, a gain or loss

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

chargeable or allowable under Case VII would have accrued to him, he shall be treated as having thereby disposed of the asset by selling it for its then market value.

- (2) Where an asset forming part of the trading stock of a person's trade is appropriated by him for any other purpose, or is retained by him on his ceasing to carry on the trade, he shall be treated as having acquired it for a consideration equal to the amount brought into the accounts of the trade in respect of it for tax purposes on the appropriation or on his ceasing to carry on the trade, as the case may be.
- (3) Sub-paragraph (1) above shall not apply in relation to a person's appropriation of an asset for the purposes of a trade if he is chargeable to tax in respect of the profits of the trade under Case I of Schedule D, and elects that instead the market value of the asset at the time of the appropriation shall, in computing the profits of the trade for purposes of tax, be treated as reduced by the amount of the gain or increased by the amount of the loss referred to in that sub-paragraph, and where that sub-paragraph does not apply by reason of such an election, the profits of the trade shall be computed accordingly :

Provided that if a person making an election under this sub-paragraph is at the time of the appropriation carrying on the trade in partnership with others, the election shall not have effect unless concurred in by the others.

Dealings in marketable securities, commodities, etc.

- 8 (1) Where a person disposes of shares, the shares disposed of shall be identified in accordance with the rules contained in this paragraph with the shares acquired by him which could be comprised in that disposal, and shall be so identified notwithstanding that they are otherwise identified by the disposal or by a transfer or delivery giving effect to it (but so that where a person disposes of shares in one capacity, they shall not be identified with shares which he holds or can dispose of only in some other capacity).
- (2) The identification under this paragraph of the shares disposed of on any occasion shall have effect not only for determining the gain or loss accruing by reason of that disposal but for all purposes of Case VII, including its operation in relation to other disposals by the same person and, in a case where that person's acquisition of the shares is or may be relevant to the person acquiring from him, its operation in relation to the last-mentioned person.
- (3) Shares disposed of on an earlier date shall be identified before shares disposed of on a later, and the identification of the shares first disposed of shall accordingly determine the shares which could be comprised in the later disposal.
- (4) Shares disposed of for transfer or delivery on a particular date or in a particular period —
 - (a) shall not be identified with shares acquired for transfer or delivery on a later date or in a later period ; and
 - (b) shall be identified with shares acquired for transfer or delivery on or before that date or in or before that period, but on or after the date of the disposal, rather than with shares not so acquired.
- (5) The shares disposed of shall be identified with shares not acquired as legatee rather than with shares acquired as legatee.
- (6) The shares disposed of shall be identified—

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

- (a) with shares acquired within the six months preceding the disposal (but not earlier than the tenth day of April, nineteen hundred and sixty-two) rather than with shares not so acquired, and with shares so acquired on an earlier date rather than with shares so acquired on a later ; and
 - (b) subject to paragraph (a) above, with shares acquired on a later date rather than with shares acquired on an earlier; and
 - (c) with shares acquired at different times on any one day in as nearly as may be equal proportions.
- (7) The rules above contained shall have priority according to the order in which they are so contained.
- (8) Notwithstanding anything in sub-paragraphs (3) to (6) above, where, under arrangements designed to postpone the transfer or delivery of shares disposed of, a person by a single bargain acquires shares for transfer or delivery on a particular date or in a particular period and disposes of them for transfer or delivery on a later date or in a later period, then—
- (a) the shares disposed of by that bargain shall be identified with the shares thereby acquired ; and
 - (b) shares previously disposed of which, but for the operation of paragraph (a) above in relation to acquisitions for transfer or delivery on the earlier date or in the earlier period, would have been identified with the shares acquired by that bargain—
 - (i) shall, subject to sub-paragraph (3) above, be identified with any available shares acquired for such transfer or delivery (that is to say, any shares so acquired other than shares to which paragraph (a) above applies and other than shares with which shares disposed of for such transfer or delivery would be identified apart from this sub-paragraph) ; and
 - (ii) in so far as they cannot be so identified shall be treated as disposed of for transfer or delivery on the later date or in the later period above mentioned.
- (9) This paragraph shall apply in relation to a disposal of any assets as it applies in relation to a disposal of shares, where the assets are of a nature to be dealt in without identifying the particular assets disposed of or acquired.
- 9 (1) Subject to sub-paragraph (3) below, where a loss accrues to a person from his acquisition and disposal of any shares, and he re-acquires the same shares within one month after the disposal or, in the case of a re-acquisition otherwise than through a stock exchange, within six months after it, that loss shall not be allowable under Case VII otherwise than by deduction from any gain accruing to him from an acquisition and disposal of the shares beginning with the re-acquisition.
- (2) Subject to sub-paragraph (3) below, where a person disposes of shares and afterwards acquires the like shares within the period referred to in sub-paragraph (1) above, he is to be treated for the purposes of this paragraph as re-acquiring the shares disposed of (or, if the quantity disposed of was greater than the quantity acquired, a part of them equal to the quantity acquired), but so that—
- (a) there cannot be in relation to the same disposal more than one re-acquisition of the same share, nor be by the same acquisition of a share a re-acquisition in relation to more than one disposal; and

- (b) an acquisition of shares shall, where there has been more than one relevant disposal, be treated as a re-acquisition of shares disposed of on an earlier date rather than of shares disposed of on a later, and as a re-acquisition of shares disposed of at different times on the same date in as nearly as may be equal proportions ; and
 - (c) where there is more than one acquisition of shares relevant to a previous disposal, shares acquired on an earlier date shall be treated in relation to that disposal as the shares re-acquired rather than shares acquired on a later date, and as between shares acquired on any one date those subsequently disposed of on an earlier date shall be so treated rather than those subsequently disposed of on a later date, and those subsequently disposed of on any one day shall be so treated in as nearly as may be equal proportions ;
 - (d) where a person disposes of shares in one capacity, shares which he acquires in some other capacity shall be disregarded.
- (3) Where a person acquires shares and, under paragraph 8 above, shares previously disposed of by him are identified with those shares, then—
- (a) this paragraph shall not apply in relation to any loss accruing from that acquisition and disposal; and
 - (b) that acquisition shall not be treated for the purposes of this paragraph as a re-acquisition of any shares.
- (4) Where under sub-paragraph (8) of paragraph 8 above shares disposed of are identified with shares acquired by the same bargain, sub-paragraph (3) of this paragraph shall apply as if the disposal had preceded the acquisition.
- (5) Where—
- (a) under arrangements designed to postpone the acceptance of shares acquired, a person by a single bargain disposes of shares for transfer or delivery on a particular date or in a particular period and acquires them for transfer or delivery on a later date or in a later period ; and
 - (b) under paragraph 8 above—
 - (i) the shares disposed of by that bargain are identified with shares previously acquired for transfer or delivery on the earlier date or in the earlier period ; and
 - (ii) shares disposed of afterwards, but within six months of the date of that bargain, are identified with the shares acquired by that bargain ;then, subject to sub-paragraph (6) below, sub-paragraph (3) of this paragraph shall apply as if the disposal by that bargain had preceded the acquisition of the shares so identified with those disposed of.
- (6) Where an acquisition of shares is more than once continued by such a bargain as is referred to in paragraph (a) of sub-paragraph (5) above, that sub-paragraph shall apply in relation to each bargain continuing the acquisition, but so that in relation to each such bargain sub-paragraph (ii) of paragraph (b) shall have effect as if the references to the date of and to the shares acquired by the bargain were references to the date of and to the shares acquired by the last of the bargains ; and for the purposes of this sub-paragraph an acquisition continued by one bargain shall be treated as further continued by a later bargain, in so far as the shares disposed of by the later bargain are identified under paragraph 8 above with the shares acquired by the earlier.

- (7) This paragraph shall apply in relation to acquisitions or disposals of any assets as it applies in relation to acquisitions or disposals of shares, where the assets are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

Reorganisation of share capital, conversion of securities etc.

- 10 (1) This paragraph shall apply in relation to any reorganisation or reduction of a company's share capital; and for the purposes of this paragraph—
- (a) references to a reorganisation of a company's share capital include—
 - (i) any case where persons are, whether for payment or not, allotted shares in or debentures of the company in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of shares in the company or of any class of shares in the company ; and
 - (ii) any case where there are more than one class of share and the rights attached to shares of any class are altered ; and
 - (b) " original shares " means shares held before and concerned in the reorganisation or reduction of capital, and " new holding" means, in relation to any original shares, the shares in and debentures of the company which as a result of the reorganisation or reduction of capital represent the original shares (including such, if any, of the original shares as remain).
- (2) Subject to the following sub-paragraphs, a reorganisation or reduction of a company's share capital shall not be treated as involving any disposal of the original shares or any acquisition of the new holding or any part of it, but the original shares and the new holding shall be treated as the same asset acquired as the original shares were acquired.
- (3) Where, on a reorganisation or reduction of a company's share capital, a person gives or becomes liable to give any consideration for his new holding or any part of it. that consideration shall in relation to any disposal of the new holding or any part of it be treated as having been given for the original shares, and if the new holding or part of it is disposed of with a liability attaching to it in respect of that consideration, the consideration given for the disposal shall be adjusted accordingly:
- Provided that there shall not be treated as consideration given for the new holding or any part of it any surrender, cancellation or other alteration of the original shares or of the rights attached thereto, or consisting of any application in paying up the new holding or any part of it of assets of the company or of any dividend or other distribution declared out of those assets but not made.
- (4) Where, on a reorganisation or reduction of a company's share capital, a person receives or becomes entitled to receive in respect of his original shares any capital distribution from the company not forming part of the new holding, he shall be treated as if the new holding resulted from his having in consideration of that distribution disposed of an interest in the original shares of a market value equal to that of the distribution (but without prejudice to the original shares and the new holding being treated in accordance with sub-paragraph (2) above as the same asset).
- (5) Where for the purpose of computing the gain or loss accruing to a person from the acquisition and disposal of any part of the new holding it is necessary to apportion the cost of acquisition of any of the original shares between what is disposed of and what is retained, the apportionment shall be made by reference to market value at the

date of the disposal (with such adjustment of the market value of any part of the new holding as may be required to offset any liability attaching thereto but forming part of the cost to be apportioned); and any corresponding apportionment for the purposes of sub-paragraph (4) above shall be made in like manner.

- (6) Where on a reorganization of a company's share capital a person receives or becomes entitled to receive in respect of any shares a provisional allotment of shares in or debentures of the company, then unless he neither accepts the allotment nor disposes of his rights before or after the making of the allotment, those rights shall be treated in relation to him and in relation to any person acquiring them directly or indirectly from him as if they were the shares or debentures to which they relate and as if the consideration to be given for the shares or debentures were a liability attaching to the rights.
- (7) References in this paragraph to a reduction of share capital do not include the paying off of redeemable share capital, and where shares in a company are redeemed by the company otherwise than by the issue of shares or debentures (with or without other consideration) and otherwise than in a liquidation, the shareholder shall be treated as disposing of the shares at the time of the redemption.
- 11 (1) Subject to sub-paragraph (2) below, paragraph 10 above shall apply with any necessary adaptations in relation to the conversion of securities as it applies in relation to the reorganisation or reduction of a company's share capital.
- (2) Where securities are converted on an exchange effected under any arrangement which is being carried out under section two of the National Loans Act, 1939, and any additional consideration is given to the holder of the securities, sub-paragraph (4) of paragraph 10 above shall not apply to the additional consideration, but it shall in relation to any disposal of the new holding or any part of it be treated as reducing the consideration given for the original securities.
- (3) For the purposes of this paragraph—
- (a) "conversion of securities" includes a conversion of securities of a company into shares in the company, and a conversion at the option of the holder of the securities converted as an alternative to the redemption of those securities for cash ; and
- (b) "security" includes any loan stock or similar security whether of the Government of the United Kingdom or of any other government, or of any public or local authority in the United Kingdom or elsewhere, or of any company, and whether secured or unsecured.

Company amalgamations

- 12 (1) Subject to the following sub-paragraphs, where a company issues shares or debentures to a person in exchange for shares in or debentures of another company, paragraph 10 above shall apply with any necessary adaptations as if the two companies were the same company and the exchange were a reorganisation of its share capital.
- (2) This paragraph shall apply only where the company issuing the shares or debentures has or in consequence of the exchange will have control of the other company, or where the first-mentioned company issues the shares or debentures in exchange for shares as the result of a general offer made to members of the other company or any class of them (with or without exceptions for persons connected with the first-mentioned company), the offer being made in the first instance on a condition such

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

that if it were satisfied the first-mentioned company would have control of the other company.

- (3) Except to the extent mentioned in sub-paragraph (4) below, this paragraph shall not apply in relation to an issue of snares or debentures to a person in exchange for shares in respect of which—
- (a) he is liable to a charge by virtue of section fourteen of this Act by reason of a gain accruing to him on that disposal of those shares or would be so liable if he had acquired the shares more than six months previously ; and
 - (b) he would not, if this paragraph did apply, be liable to a greater charge by virtue of sub-paragraph (4) of paragraph 10 above:

Provided that this sub-paragraph shall not have effect in relation to an issue of shares where the company issuing the shares and his holding in it are or in consequence of the issue will be such that on his afterwards disposing of those shares without there having been any alteration in the share holdings in or assets of that or any other company he might in respect of the gain (if any) accruing to him on that disposal be liable to a charge under section fourteen of this Act.

- (4) In a case within sub-paragraph (3) above this paragraph shall apply so as to treat the original shares and the new holding as one asset for the purpose of determining the time at which the new holding is, in relation to any disposal, to be treated as having been acquired ; and the person in question shall not be liable in respect of his disposal of the original shares to any greater charge than that mentioned in paragraph (a) of that sub-paragraph, nor shall any loss accruing on the disposal be allowable under Case VII.

- 13 (1) Where under any arrangement between a company and the persons holding shares in or debentures of the company or any class of such shares or debentures, being an arrangement entered into for the purposes of or in connection with a scheme of reconstruction or amalgamation, another company issues shares or debentures to those persons in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of the first-mentioned shares or debentures, but the first-mentioned shares or debentures are either retained by those persons or cancelled, then those persons shall be treated as exchanging the first-mentioned shares or debentures for those held by them in consequence of the arrangement (any shares or debentures retained being for this purpose regarded as if they had been cancelled and replaced by a new issue):

Provided that sub-paragraph (2) of paragraph 12 above shall not apply.

- (2) Where any scheme of reconstruction or amalgamation involves the transfer of the whole or part of a company's business to another company, and the first-mentioned company receives no part of the consideration for the transfer (otherwise than by the other company taking over the whole or part of the liabilities of the business), then the first-mentioned company shall not be chargeable under Case VII by reference to the transfer in respect of its acquisition and disposal of any assets included in the transfer.
- (3) In this paragraph " scheme of reconstruction or amalgamation " means a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and references to shares or debentures being retained include their being retained with altered rights or in an altered form, whether as the result of reduction, consolidation, division or otherwise.

- 14 (1) This paragraph shall apply where a business is transferred to a company as a going concern together with the whole assets of the business or with the whole of those assets other than cash, and is so transferred wholly or partly in exchange for shares issued by the company to the person transferring the business.
- (2) The person transferring the business shall not be chargeable by reference to the transfer in respect of his acquisition and disposal of any asset included in the transfer, in so far as the consideration for it consists of shares so issued ; and where apart from this paragraph he would be so chargeable in the case of any asset, it and such of the shares so issued as represent the consideration for it shall be treated as the same asset acquired as the original asset was acquired (shares representing the consideration for land being accordingly treated as land for purposes of subsection (2) of section ten of this Act).
- (3) The person transferring the business shall not by reference to the issue to him of the shares be chargeable in respect of any acquisition and disposal of shares representing consideration for the transfer, except in the case of shares representing the consideration for cash included in the transfer or of shares treated under sub-paragraph (2) above as being the same asset as an asset so included ; but the foregoing provision shall not affect any charge under section fourteen of this Act, and in relation to shares to which this sub-paragraph applies, sub-paragraph (5) of paragraph 8 of this Schedule and any other provision of this Act referring to assets acquired as legatee shall have effect as it has effect in relation to shares so acquired.
- (4) For the purposes of this paragraph the consideration for the transfer of the business (where it does not consist wholly of shares of a single class) shall be allocated between the transfer and any other matter for which it is given, and between the assets included in the transfer, as follows:—
- (a) any part of the consideration consisting of liabilities of the business taken over with the business shall be treated so far as may be as consideration for the transfer, and as consideration for any cash included in the transfer ; and
 - (b) any part of the consideration not consisting of any such liabilities nor of shares issued as mentioned in sub-paragraph (1) above shall as far as may be—
 - (i) be treated as consideration for matters other than the transfer ; and
 - (ii) so far as it is not so treated, be treated as consideration for assets in the case of which the person making the transfer is (apart from sub-paragraph (2) above) chargeable by reference to the transfer in respect of his acquisition and disposal of them ; and
 - (c) subject to paragraphs (a) and (b) above, the consideration of any description shall (so far as necessary) be allocated between items rateably according to their amounts after taking account of any prior allocation thereto under those paragraphs.

Debts

- 15 (1) Where a person incurs a debt to another, the creditor shall not be treated as thereby acquiring the debt, except in the case of the debt on a security (as defined in paragraph 11 of this Schedule).
- (2) In the case of the debt on any such security, or of a debt acquired by the creditor from a previous creditor, the satisfaction of the debt or part of it shall, subject to the provisions of paragraphs 11 and 12 of this Schedule, be treated as a disposal of

the debt or of that part by the creditor made at the time when the debt or that part is satisfied.

- (3) Where property is acquired by a creditor in satisfaction of his debt or part of it, then subject to the provisions of the said paragraphs 11 and 12 the property shall not be treated as disposed of by the debtor or acquired by the creditor for a consideration greater than its market value at the time of the creditor's acquisition of it; but if (in a case not falling within either of those paragraphs) the satisfaction of the debt or that part of it is not to be treated as a disposal of it by the creditor, and he becomes chargeable under Case VII in respect of gains accruing from his acquisition and disposal of the property, the amount on which tax is chargeable shall (where necessary) be reduced so as not to exceed the amount on which tax would have been chargeable if he had acquired the property for a consideration equal to the amount of the debt or that part of it.

Disposals of land to authorities with compulsory powers

- 16 (1) A person shall not be chargeable under Case VII in respect of an acquisition and disposal of land by reference to a disposal to an authority exercising or having compulsory powers, if that person had neither—
- (a) acquired the land at a time when he knew or might reasonably have known that it was likely to be acquired by the authority ; nor
 - (b) taken any steps by advertisement or otherwise to dispose of the land or to make his willingness to dispose of it known to the authority or others.
- (2) In this paragraph " authority exercising or having compulsory powers " means, in relation to any disposal of land, a person or body of persons acquiring the land compulsorily or who has or have been, or could be, authorised to acquire it compulsorily for the purposes for which it is acquired, or for whom another person or body of persons has or have been, or could be, authorised so to acquire it.

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—

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

- (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. 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.

Supplementary

- 18 (1) Where under this Schedule a person acquiring an asset is to be treated as if another's acquisition of it had been his acquisition, that person shall be treated as having acquired the asset at the time when the other acquired it, and for a consideration of such amount as would secure that on the other's disposal to that person neither a gain nor a loss would accrue to the other (that amount being calculated as it would be for the purpose of a charge under Case VII then falling on the other by reference to that acquisition), and where there have been more than one acquisition by the other

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

of different interests in the asset, this provision shall apply in relation to each such acquisition:

Provided that—

- (a) a person shall be treated as if another's acquisition of an asset had been his acquisition of it only if and in so far as the interest taken by that person would be treated for the purpose of such a charge as aforesaid as deriving from that acquisition ; and
- (b) that person shall be treated as acquiring the asset as legatee, and not for any consideration, in so far as the said interest would be so treated as deriving from an acquisition by the other as legatee.

- (2) Where a person acquires an asset subject to and with the benefit of any subsisting contract for its disposal to a third person, and under this Schedule he is to be treated as if another's acquisition of it had been his acquisition, sub-paragraphs (1) and (3) of paragraph 2 of this Schedule shall not apply in relation to the acquisition by or disposal to him of the asset (he being treated as if the other's acquisition of the right had been his acquisition).
- 19
- (1) An election under this Schedule shall be made by notice in writing signed by the person or persons making the election and the persons (if any) whose concurrence is required, and delivered to the surveyor within the relevant period.
 - (2) A notice so delivered with respect to property disposed of by way of gift shall be of no effect unless within the relevant period there is also delivered to the surveyor a statement signed by the donor and giving such particulars as are necessary to establish the time at which, and the consideration for which, the donee is to be treated as having acquired the property, in so far as those particulars may be material in relation to any acquisition and disposal by the donee.
 - (3) Where in the case of a gift a joint election is required and the donor and donee are respectively subject to the jurisdiction of different bodies of General Commissioners, the election shall be of no effect unless sub-paragraphs (1) and (2) above are complied with in relation to the surveyor for each of the districts in question.
 - (4) Any election which a person may make or concur in under this Schedule may be made or concurred in instead by his personal representatives, if he is dead, or by any person assessable on his behalf, and similarly with the statement required by sub-paragraph (2) of this paragraph.
 - (5) For the purposes of this paragraph the relevant period—
 - (a) in the case of a gift, is the period ending with the year of assessment following that in which the gift is made or, where an election may be made by the donee alone, the period ending with the year of assessment following that in which he first disposes of the property comprised in the gift or any part of it; and
 - (b) in the case of an election under paragraph 7 of this Schedule, is the period ending with the year of assessment following that in which is made the appropriation of the asset for the purposes of the trade ;
 and in this paragraph references to a gift include any disposal otherwise than by way of bargain at arm's length, and references to the donor and the donee shall be construed accordingly.
- 20
- (1) Any question whether a person is connected with another shall for the purposes of Chapter II of Part II of this Act be determined in accordance with the following sub-

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

paragraphs of this paragraph (any provision that one person is connected with another being taken to mean that they are connected with one another).

- (2) A person is connected with an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual's husband or wife.
- (3) A person, in his capacity as trustee of a settlement, is connected with any individual who in relation to the settlement is a settlor, and with any person who is connected with such an individual ("settlement" and "settlor" having for this purpose the meanings assigned to them by section four hundred and three of the Income Tax Act, 1952).
- (4) A person is connected with any person with whom he is in partnership, and with the husband or wife or a relative of any individual with whom he is in partnership.
- (5) A company is connected with another company—
 - (a) if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other ; or
 - (b) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected.
- (6) A company is connected with another person, if that person has control of it or if that person and persons connected with him together have control of it.
- (7) Any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.
- (8) In this paragraph " relative " means brother, sister, ancestor or lineal descendant.