

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945, Cross Heading: Part II Provisions applicable to Income Tax, Excess Profits Tax and the National Defence Contribution. (See end of Document for details)

EIGHTH SCHEDULE **U.K.**

AMENDMENTS AS TO EXCEPTIONAL DEPRECIATION ALLOWANCES.

Modifications etc. (not altering text)

- C1** Schedule 8 repealed so far as it relates to income tax by [Income Tax Act 1952 \(c. 10\)](#), s. 527, [Sch. 25](#)
- C1** The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Part II Provisions applicable to Income Tax, Excess Profits Tax and the National Defence Contribution

- 7 In this Part of this Schedule, the expression “exceptional depreciation allowance” means an allowance under section nineteen of the Finance Act, 1941, or an exceptional depreciation allowance as defined in paragraph 1 of Part I of this Schedule, and the expression “the principal provisions” means the provisions of section nineteen of the Finance Act, 1941, and any enactments amending that section, and the principal paragraph as defined in paragraph 1 of Part I of this Schedule.
- 8 (1) This paragraph shall have effect in relation to the sale of buildings, machinery or plant where either—
- the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and buyer are bodies of persons and some other person has control over both of them; or
 - it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole or main benefit which, apart from the provisions of this Schedule, might have been expected to accrue to the parties or any of them was the obtaining of any allowance or deduction for any of the purposes of the Income Tax Acts or of the enactments relating to excess profits tax or the national defence contribution.
- (2) Where the buildings, machinery or plant are sold at a price other than the relevant price (as defined for the purposes of this paragraph), the like consequences shall ensue for the purposes of the principal provisions, in their application to all persons concerned, as would have ensued if the buildings, machinery or plant had been sold at the relevant price.
- (3) In this paragraph the expression “the relevant price” means, in relation to any sale of buildings, machinery or plant, a price equal to—
- the price which they would have fetched if sold in the open market; or
 - the net cost of the buildings, machinery or plant to the seller, whichever is the less.

For the purposes of this sub-paragraph, the said net cost shall be treated as reduced by the aggregate amount of any deductions for wear and tear or depreciation, other than exceptional depreciation allowances, allowed to the seller in respect of the buildings, machinery or plant for the purposes of income tax, excess profits tax or the national defence contribution, as the case may be:

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Provided that the reference in this sub-paragraph to deductions for wear and tear or depreciation shall, in relation to income tax, be deemed to include a reference to any allowance made under Part I or Part II of the Income Tax Act, 1945, and shall, in relation to excess profits tax and the national defence contribution, be deemed to include a reference to the additional percentage for which provision is made by paragraph 2 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939, and to the appropriate proportion of any deduction for wear and tear or depreciation given for income tax purposes for the year 1938-39 or any previous year of assessment.

9 Any reference in the provisions of this Schedule or in the principal provisions to the sale of any property includes a reference to the exchange of any property, and, in the case of a leasehold interest, to the surrender thereof for valuable consideration, and all the said provisions shall be construed accordingly with the necessary adaptations, and, in particular, with the adaptation that references to the net proceeds of the sale and to the price shall be construed as including references to the amount of the consideration for the exchange or surrender.

10 (1) Any reference in the provisions of this Schedule or of the principal provisions to the sale of any buildings, plant or machinery includes a reference to the sale thereof together with any property, and, where the buildings, plant or machinery are sold together with other property, so much of the price of the whole of the property sold as, on a just apportionment, is properly attributable to the buildings, plant or machinery in question, shall be deemed to be the price of the buildings, plant or machinery for the purposes of those provisions, and references to the cost of the provision of buildings, plant or machinery shall be construed accordingly.

For the purposes of this sub-paragraph, all the property which is sold in pursuance of one bargain shall be deemed to be sold together, notwithstanding that separate prices are or purport to be agreed for separate items of that property or that there are or purport to be separate sales of separate items of that property.

(2) Where it is material, for the purposes of the principal provisions, to take account of any payment made or to be made in respect of buildings, plant or machinery under the War Damage Act, 1943, any payment made or to be made under that Act is properly attributable partly to the buildings, plant or machinery in question shall be taken into account for those purposes.

11 For the purposes of the principal provisions and the provisions of this Schedule, the sale of any buildings, plant or machinery shall be deemed to take place at the time of completion or the time when possession is given, whichever is the earlier.

12 References in this Schedule to a body of persons include references to a partnership.

13 In this Schedule, the expression “control”, in relation to a body corporate, means the power of a person to secure, by means of the holding of shares or the possession of voting power or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first mentioned body corporate are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than one half of the assets, or of more than one half of the income, of the partnership.

14 In this Schedule, the expression “leasehold interest” includes the interest conferred by an agreement for a lease where the term to be covered by the lease has begun, and the interest conferred by any tenancy, but not the interest conferred by a mortgage:

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Provided that, in the application of this Schedule to Scotland, the said expression means the interest of a tenant in property subject to a lease.

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