

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1974,
Cross Heading: Replacement of business assets: depreciating assets. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 3

PROVISIONS SUPPLEMENTARY TO SECTION 38

Textual Amendments

- F1** *Sch. 3* Repealed by Finance Act 1985 (c. 54, SIF 63:1), s. 98(6) and Sch. 27 Part X in relation to disposals of interests in land taking place on or after 19 March Finance Act 1985 (c. 54, SIF 63:1), but without affecting the construction of 1979 (C) Sch. 5 para. 9(5).

PART II

OTHER PROVISIONS SUPPLEMENTARY TO SECTION 38

Replacement of business assets: depreciating assets

- [19] (1) Paragraph 18 above shall have effect subject to the provisions of this paragraph, in which—
- (a) the “tax reduction” means the reduction in the income tax or corporation tax to which the person carrying on the trade is chargeable which is made under sub-paragraph (3) of the said paragraph 18 in connection with a disposal of an asset (called “asset No. 1”);
 - (b) the “expenditure reduction” means the related amount by which under sub-paragraph (4) of that paragraph, and apart from the provisions of this paragraph, the expenditure allowable in respect of another asset (called “asset No. 2”) is reduced;
 - (c) any reference to an expenditure reduction of any amount being carried forward to any asset is a reference to a reduction of that amount in expenditure allowable in respect of that asset.
- (2) If asset No. 2 is a depreciating asset, the expenditure reduction shall not be carried forward, but—
- (a) when the claimant disposes of asset No. 2, or
 - (b) when he ceases to use asset No. 2 for the purposes of a trade carried on by him, or
 - (c) on the expiration of a period of ten years beginning with the acquisition of asset No. 2,

whichever event comes first, an amount equal to the tax reduction may be assessed to tax and recovered accordingly.

Any assessment to income tax or corporation tax under this paragraph shall be made under Case VI of Schedule D.

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- (3) *If, in the circumstances specified in sub-paragraph (4) below, the claimant acquires an asset (called “asset No. 3”) which is not a depreciating asset, and so claims under paragraph 18 above—*
- (a) *the expenditure reduction shall be carried forward to asset No. 3, and*
 - (b) *the claim which applies to asset No. 2 shall be treated as withdrawn (so that sub-paragraph (2) above does not apply).*
- (4) *The circumstances are that asset No. 3 is acquired not later than the occurrence of whichever of the events mentioned in sub-paragraph (2) above comes first and, assuming—*
- (a) *that the consideration for asset No. 1 was applied in acquiring asset No. 3, and*
 - (b) *that the time between the disposal of asset No. 1 and the acquisition of asset No. 3 was within the time limited by section 115(3) of the Capital Gains Tax Act 1979 as applied by paragraph 18(6) above,*
- the whole amount of the expenditure reduction could be carried forward from asset No. 1 to asset No. 3; and the claim under sub-paragraph (3) above shall be accepted as if those assumptions were true.*
- (5) *For the purposes of this paragraph an asset is a depreciating asset at any time if—*
- (a) *at that time it is a wasting asset as defined in section 37(1) of the Capital Gains Tax Act 1979, or*
 - (b) *within the period of ten years beginning at that time it will become a wasting asset (so defined).*
- (6) *This paragraph shall be construed as one with paragraph 18 above^{F2}.]]*

Textual Amendments

F2 Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 paras. 4 and 9 for 1979-80 et seq.

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