

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1974, SCHEDULE 7. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 7

Section 44.

#### TREATMENT OF DEVELOPMENT GAINS UNDER THE TAX ACTS

##### Textual Amendments

- F1** *Sch. 7 repealed by Finance Act 1985 (c. 54, SIF 63:1), s. 98(6) and Sch. 27 Part X in relation to disposals of interests in land taking place on or after 19 March Finance Act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)*

##### *Individuals*

- [<sup>F2</sup> *For the purposes mentioned in subsection (3) of section 32 of the Finance Act 1971 (income tax charged at basic and other rates) a development gain accruing to an individual shall not be investment income<sup>F2</sup>.]*

##### Textual Amendments

- F2** *Sch. 7 para. 1 repealed by Finance Act 1984 (c. 43, SIF 63:1), ss. 17(2), 128(6), Sch. 7 paras. 3(4), 23, Part VI*

- 2 (1) *An individual to whom a development gain accrues may on making a claim require that effect shall be given to the following provisions of this paragraph in relation to that gain.*
- (2) *If the interval between the claimant's acquisition and disposal of the asset on the disposal of which the development gain accrued to him exceeds twelve months but does not exceed twenty-four months, then, for all income tax purposes, one-half only of the amount of the gain shall be treated as having arisen on the date of the disposal, and the remaining half shall be treated as having arisen twelve months before that date.*
- (3) *If the said interval exceeds twenty-four months but does not exceed thirty-six months, then, for all income tax purposes, one-third only of the amount of the gain shall be treated as having arisen on the date of the disposal, and one-third shall be treated as having arisen twelve months, and one-third twenty-four months, before that date.*
- (4) *If the said interval exceeds thirty-six months, then, for all income tax purposes, one-quarter only of the amount of the gain shall be treated as having arisen on the date of the disposal, and one-quarter shall be treated as having arisen twelve months, one-quarter twenty-four months, and one-quarter thirty-six months, before that date.*

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*Companies: general*

- 3 (1) *Subject to paragraph 4 below, advance corporation tax paid by a company shall not be set against its liability to corporation tax on any profits attributable to development gains and, accordingly, in section 85(6) of the Finance Act 1972 after the words “chargeable gains”, in both places where they occur, there shall be inserted the words “or development gains”.*
- (2) *In subsection (8) of section 95 and subsection (3) of section 96 of the Finance Act 1972 (where the income of a company is defined for the purposes of those sections by reference to the said section 85(6)), after the words “section 85(6) above” there shall be added the words “as originally enacted”.*

*Close companies*

- 4 (1) *Paragraph 3(1) above shall not apply in the case of a close company as regards an accounting period for which the income of the company may under paragraph 1 of Schedule 16 to the Finance Act 1972 be apportioned among the participators or could be so apportioned apart from sub-paragraphs (2) and (3) of that paragraph; and accordingly section 85(6) of the Finance Act 1972 shall, in the case of a close company, have effect as regards any such accounting period as if the said paragraph 3(1) had not been enacted.*
- (2) *For the purposes of paragraph 11(1) of Schedule 16 to the Finance Act 1972 (close companies: definition of trading company) a development gain accruing to a company shall not be investment income.*
- 5 *In paragraph 10(8) of Schedule 16 to the Finance Act 1972 (order in which different descriptions of company’s income are to be treated as reduced by allowable deductions)—*
- (a) *in paragraph (b), for the word “and” there shall be substituted the words “other than estate or trading income attributable to development gains”;*
  - (b) *in paragraph (c), for the words “chargeable gains” there shall be substituted the words “development gains; and”;*
  - (c) *after paragraph (c) there shall be inserted as paragraph (d)—*
    - “(d) fourthly, so far as it cannot be made under (a), (b) or (c) above, from the amount included in the company’s profits in respect of chargeable gains.”

**Modifications etc. (not altering text)**

- C1** The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 6 *After paragraph 14 of Schedule 16 to the Finance Act 1972 there shall be inserted the following paragraph—*
- “14A (1) For the purposes of paragraph 14 above any part of a company’s distributable income which is attributable to development gains to which this paragraph applies shall be treated as not affected by any such restriction as is mentioned in sub-paragraph (1) of that paragraph, and the amount which would otherwise be disregarded under that sub-paragraph shall accordingly be reduced by an amount equal to that part.

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- (2) This paragraph applies to any development gain accruing in respect of a disposal which is by virtue of section 45(1) of the Finance Act 1974 or paragraph 2(3) of Schedule 9 to that Act deemed to have been made.
- (3) Any deduction which under paragraph 10(8)(c) above is treated as made from the amount included in a company's profits in respect of development gains shall for the purposes of this paragraph be treated as made first from any amount so included in respect of development gains to which this paragraph applies.
- (4) For the purposes of this paragraph the part, if any, of a company's distributable income which is attributable to development gains to which this paragraph applies is the part attributable to such development gains after the making of any deduction under paragraph 10(8)(c) above in accordance with sub-paragraph (3) of this paragraph"

**Modifications etc. (not altering text)**

- C2** The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Insurance companies*

- 7 (1) *A development gain accruing to an insurance company carrying on life assurance business shall, if it accrues in respect of investments held in connection with that business, be treated for the purposes of sections 310 ( rate relief: investment income reserved for policy holders) and 315 (foreign life assurance funds) of the Taxes Act as if it were income from investments held in connection with that business.*
- (2) *Income attributable to development gains shall be left out of account in computing under section 312 of the Taxes Act (general annuity business and pension business: separate charge on profits) the profits arising to an insurance company from general annuity business and, accordingly, in subsection (2)(a) of section 313 of the Taxes Act ( general annuity business) for the words "and group income" there shall be substituted the words "group income and income attributable to development gains".*
- (3) *Overseas life insurance companies shall be chargeable to corporation tax on income attributable to development gains in the same manner as other insurance companies carrying on life assurance business and, accordingly, in section 316 of the Taxes Act (overseas life insurance companies: charge on investment income) after subsection (1) there shall be inserted as subsection (1A)—[ for text see 1970 s.316(1A)].*
- "(1A) In the preceding subsection "income" shall not include income attributable to development gains (but without prejudice to any claim under section 310 of this Act)"*
- (4) *This paragraph shall be construed as one with ChapterIIof PartXIIof the Taxes Act.*

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**Modifications etc. (not altering text)**

- C3** The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Discretionary trusts*

- 8 *In section 17 of the Finance Act 1973 (payments under discretionary trusts), in subsection (3) (amounts to be set against tax assessable on trustees in connection with such payments), at the end of paragraph (d) there shall be inserted the words—*

“and

- (e) the amount of any tax on income arising to the trustees by virtue of section 38(2) of the Finance Act 1974 (development gains) and charged at a rate equal to the sum of the basic rate and the additional rate in pursuance of section 43(1) of that Act;”

**Modifications etc. (not altering text)**

- C4** The text of ss. 50, 54(1)(2), 56, Sch. 7 paras. 5(c), 6, 7(3), 8, 9(3)(a)(c)(4), Sch.14 Pts. I–IV, VI, VII is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Estates of deceased persons in course of administration*

- 9 (1) *Where a development gain has accrued to the personal representatives of a deceased person as such during the administration period, Part XV of the Taxes Act (estates of deceased persons in course of administration) shall have effect subject to the following provisions of this paragraph.*

- (2) *For the purposes of section 426(5) of the Taxes Act (relief from tax on deemed income in respect of a limited interest in a foreign estate)—*

- (a) *any income arising to the personal representatives of a deceased person as such by virtue of section 38(2) of this Act (development gains) shall be treated as not forming part of the aggregate income of the estate in question; and*
- (b) *any United Kingdom income tax borne by any such income shall be left out of account.*

- (3) *Section 427 of the Taxes Act (absolute interests in residue) shall have effect as if—*

- (a) *for subsection (3)(a) there were substituted—*

“(a) in the case of a United Kingdom estate—

- (i) in the first instance, as regards so much of his residuary income for that year as has borne income tax at the basic rate for that year, that much of that income less income tax at that rate, and
- (ii) subject to the preceding sub-paragraph, as regards so much of his residuary income for that year as has borne income tax at a rate equal to the sum of the

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basic rate and the additional rate for that year, that much of that income less income tax at the sum of those rates,

and”

(b) *in subsection (3), as amended by paragraph 53(b) of Schedule 6 to the Finance Act 1971, there were added at the end the words— “ or, where appropriate, at a rate equal to the sum of the basic rate and the additional rate ”; and*

(c) *in subsection (4)(a), as amended by paragraph 53(c) of the said Schedule 6, after the words “the basic rate” there were inserted the words— “ or, in so far as it has borne income tax at a rate equal to the sum of the basic rate and the additional rate, at a rate equal to the sum of those rates ”.*

(4) *Section 429 of the Taxes Act (special provisions as to certain interests in residue) shall have effect as if in subsection (2)(a), as amended by paragraph 55 of the said Schedule 6, after the words “the basic rate” there were inserted the words— “ or, in so far as it has borne income tax at a rate equal to the sum of the basic rate and the additional rate, at the sum of those rates ”.*

(5) *This paragraph shall be construed as one with Part XV of the Taxes Act; [<sup>F3</sup>and in sections 427 and 429 of that Act, as they have effect by virtue of this paragraph, “the additional rate” means the additional rate mentioned in section 32(1) of the Finance Act 1971 or, if more than one, the higher or highest of them.]*

#### Textual Amendments

**F3** Words repealed by [Finance Act 1984 \(c. 43, SIF 63:1\)](#), ss. 17(2), 128(6), [Sch. 7 paras. 3\(4\), 23](#), [Sch. 7 Part VI](#)

#### Modifications etc. (not altering text)

**C5** The text of ss. 50, 54(1)(2), 56, [Sch. 7 paras. 5\(c\), 6, 7\(3\), 8, 9\(3\)\(a\)\(c\)\(4\)](#), [Sch. 14 Pts. I–IV, VI, VII](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Settlements on children

10 *Where a development gain accrues in respect of a disposal of assets made by a person holding them as trustee for a person who would be absolutely entitled as against the trustee but for being an infant, the income which by virtue of section 38(2) of this Act is treated as arising by reference to that gain shall for the purposes of Chapter II of Part XVI of the Taxes Act (settlements on children) be deemed to be paid to the infant.*

*In this paragraph “infant”, in relation to Scotland, means a pupil or minor.]*

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