

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

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 8

#### ADAPTATIONS AND AMENDMENTS OF PROVISIONS RELATING TO THE TAXATION OF CAPITAL GAINS

##### Textual Amendments

- F1** Sch. 8 repealed by Finance Act 1985 (c. 54, SIF 63:1), s. 98(6), Sch.27 Part X in relation to disposals of interests in land taking place on or after 19 March Finance Act 1985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).

##### *Transfer of business to a company*

- 7 (1) *If, in a case where [section 123 of the Capital Gains Tax Act 1979 <sup>F2</sup>] applies, any development gains accrue to the transferor in respect of his disposal (referred to below as “the original disposal”) of the assets included in the business, then, if the transferor makes a claim under this paragraph as respects the transfer, the following provisions of this paragraph shall apply.*

*This paragraph shall be construed as one with the [said section 123 <sup>F2</sup>.]*

- (2) *For the purposes of this paragraph—*
- (a) *“the net development gains” means the development gains accruing to the transferor in respect of the original disposal, as reduced by any development losses deducted from or set off against those gains under section 176 or 179 of the Taxes Act in accordance with paragraph 4 of Schedule 6 to this Act;*
  - (b) *“the qualifying amount” —*
    - (i) *if the business is transferred wholly in exchange for shares issued by the company to the transferor, means the amount of the net development gains;*
    - (ii) *in any other case, means the amount by which what would have been the amount determined under [subsection (4) of the said section 123 <sup>F3</sup>] if this Chapter had not been enacted exceeds the amount actually determined under [that subsection <sup>F3</sup>], or the amount of the net development gains, whichever is the smaller;*
  - (c) *the qualifying amount shall be apportioned between the new assets ( that is to say, the shares received by the transferor in exchange for the business) as a whole, and, if those shares are not all of the same class, the apportionment between them shall be in accordance with their market values at the time they were acquired by the transferor.*
- (3) *The profits or gains chargeable to tax under Case VI of Schedule D on the transferor for the year of assessment in which the original disposal is made shall be reduced by the qualifying amount.*

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- (4) *If the transferor disposes of shares comprised in the new assets, being all the shares of a particular class which are so comprised, then the amount apportioned to those shares under sub-paragraph (2)(c) above shall be treated as a development gain accruing to him in the year of assessment in which that disposal is made and as constituting profits or gains chargeable to tax under Case VI of Schedule D for that year.*
- (5) *If the transferor disposes of shares comprised in the new assets, being some but not all of the shares of a particular class which are so comprised ( so that the disposal constitutes a part disposal), then a fraction only of the amount apportioned to all the shares of that class under sub-paragraph (2)(c) above shall be treated as mentioned in the preceding sub-paragraph, and that fraction shall be the fraction of the sums mentioned in the following sub-paragraph which is allowable as a deduction in computing under [Chapter II of Part II of the Capital Gains Tax Act 1979 <sup>F3</sup>] the amount of the gain accruing on that part disposal.*
- (6) *The sums referred to in the preceding sub-paragraph are the sums which, if all the shares of the class in question comprised in the new assets and remaining undisposed of immediately before the time of the part disposal in question had been disposed of at that time, would be allowable by virtue of [section 32(1)(a) and (b) of the Capital Gains Tax Act 1979 <sup>F3</sup>] as a deduction in computing under [Chapter II of Part II of that Act<sup>F3</sup>] the gain accruing on the disposal of all those shares.*
- (7) *Where an individual to whom a development gain is treated as accruing by virtue of this paragraph makes a claim under paragraph 2 of Schedule 7 to this Act as respects that gain, sub-paragraphs (2) to (4) of that paragraph shall have effect in relation to that claim subject to the following modifications, that is to say—*
- (a) *the references to the interval between the claimant's acquisition and disposal of the asset on the disposal of which the development gain accrued to him shall be read as references to the interval between the date when he acquired any of those assets of the business which caused development gains to accrue to him in respect of the original disposal and the date of the original disposal; and*
  - (b) *the references to "the date of the disposal" shall be read as references to the date of the disposal of shares comprised in the new assets which is mentioned in sub-paragraph (4) or (5) above, as the case may be.]*

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**Textual Amendments**

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

**F3** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

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