

SCHEDULES

SCHEDULE 20

SELF-ASSESSMENT: DISCRETIONS EXERCISABLE BY THE BOARD ETC.

The Taxation of Chargeable Gains Act 1992

- 45 In the following provisions of this Schedule “the Gains Act” means the Taxation of Chargeable Gains Act 1992.
- 46 In section 30(4) of the Gains Act (section not to apply if it is shown that there was no tax avoidance purpose) for “if it is shown that” there shall be substituted “in a case where”.
- 47 In each of—
- (a) subsections (5) and (6) of section 30 of the Gains Act (consideration to be increased or reduced by such amount as appears to the inspector etc to be just and reasonable),
 - (b) section 32(4)(b) of the Gains Act (costs in cases of part disposal to be such proportion as appears to the inspector etc to be just and reasonable), and
 - (c) subsections (7) and (8) of section 33 of the Gains Act (amounts to be reduced to such amount as appears to the inspector etc to be just and reasonable),
- for “appears to the inspector, or on appeal the Commissioners concerned, to be” there shall be substituted “is”.
- 48 In section 48 of the Gains Act (consideration due after time of disposal and irrecoverable consideration) for the words following “if any part of the consideration so brought into account” there shall be substituted “subsequently proves to be irrecoverable, there shall be made, on a claim being made to that effect, such adjustment, whether by way of discharge or repayment of tax or otherwise, as is required in consequence.”
- 49 In section 49 of the Gains Act (contingent liabilities) for subsection (2) (adjustment to be made if it is shown to the satisfaction of the inspector that a contingent liability has become enforceable) there shall be substituted—
- “(2) If any such contingent liability subsequently becomes enforceable and is being or has been enforced, there shall be made, on a claim being made to that effect, such adjustment, whether by way of discharge or repayment of tax or otherwise, as is required in consequence.”
- 50 In section 52(4) of the Gains Act (apportionments by such method as appears to the inspector etc to be just and reasonable) the words “such method as appears to the inspector or on appeal the Commissioners concerned to be” shall cease to have effect.

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- 51 In section 116(13) of the Gains Act (subsection (12) not to apply where inspector, being satisfied sum is comparatively small, so directs) the words “the inspector is satisfied that” and “and so directs,” shall cease to have effect.
- 52 (1) In section 122 of the Gains Act (distribution which is not a new holding) in subsection (2) (treatment of distributions which the inspector is satisfied are comparatively small) the words “the inspector is satisfied that” and “and so directs” shall cease to have effect.
- (2) Subsection (3) of that section (appeals from decisions of inspectors under subsection (2)) shall cease to have effect.
- (3) In subsection (4)(a) of that section (subsections (2) and (3) not to apply in certain cases) for “subsections (2) and (3)” there shall be substituted “subsection (2)”.
- 53 (1) In section 133 of the Gains Act (premiums on conversion of securities) in subsection (2) (treatment of premiums which the inspector is satisfied are comparatively small) the words “the inspector is satisfied that” and “and so directs” shall cease to have effect.
- (2) Subsection (3) of that section (appeals from decisions of inspectors under subsection (2)) shall cease to have effect.
- (3) In subsection (4)(a) of that section (subsections (2) and (3) not to apply in certain cases) for “subsections (2) and (3)” there shall be substituted “subsection (2)”.
- 54 In each of sections 150(10)(a) and 150A(9)(a) of the Gains Act (reductions in relief to be apportioned in such a way as appears to the inspector etc to be just and reasonable) for “such a way as appears to the inspector, or on appeal to the Commissioners concerned, to be” there shall be substituted “a way which is”.
- 55 In section 164F(8)(a) of the Gains Act (section not to apply where it is shown that winding up etc is bona fide) the words “it is shown that” shall cease to have effect.
- 56 In section 164FG of the Gains Act (multiple claims for reductions under section 164A(2) or 164F(10A) of the Gains Act) in subsection (2) (reductions to be treated as claimed separately in such sequence as the claimant elects or an officer of the Board in default of an election determines) the words “or an officer of the Board in default of an election determines” shall cease to have effect.
- 57 (1) In each of subsections (4) and (6) of section 176 of the Gains Act (losses or gains on disposals where there have been depreciatory transactions to be reduced to such extent as appears to the inspector etc to be just and reasonable) for “appears to the inspector, or, on appeal, the Commissioners concerned, to be” there shall be substituted “is”.
- (2) In subsection (5) of that section (footing on which decision under subsection (4) is to be made) for “The inspector or the Commissioners shall make the decision under subsection (4) above” there shall be substituted “A reduction under subsection (4) above shall be made”.
- 58 In section 181(1)(b) of the Gains Act (sections 178 and 179 not to apply where it is shown that merger was bona fide) the words “it is shown that”, and the word “that” in the second place where it occurs, shall cease to have effect.
- 59 (1) Section 222 of the Gains Act (relief on disposal of residence and land up to the permitted area, which is 0.5 of a hectare) shall be amended in accordance with the following provisions of this paragraph.

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- (2) For subsection (3) (which provides for the permitted area in certain cases to be such area, larger than 0.5 of a hectare, as the Commissioners may determine) there shall be substituted—
- “*(3) Where the area required for the reasonable enjoyment of the dwelling-house (or of the part in question) as a residence, having regard to the size and character of the dwelling-house, is larger than 0.5 of a hectare, that larger area shall be the permitted area.*”
- (3) In subsection (5) (determination of individual’s main residence)—
- (a) paragraph (b) (which, subject to conclusive notice by the individual under paragraph (a), provides for the question to be determined by an inspector), and
- (b) the words following that paragraph (right of appeal against inspector’s determination),
- shall cease to have effect.
- (4) In subsection (6), paragraph (b) (further provision about the right of appeal against determinations under subsection (5)(b)) and the word “and” immediately preceding it shall cease to have effect.
- 60 In section 224(2) of the Gains Act (adjustment of relief given by section 223 for changes occurring during period of ownership) for “may be adjusted in such manner as the Commissioners concerned may consider to be just and reasonable” there shall be substituted “may be adjusted in a manner which is just and reasonable”.
- 61 In section 226 of the Gains Act (relief in respect of private residence occupied by dependent relative before 6th April 1988) subsection (5) (power of inspector, before granting a claim for relief under that section, to require claimant to show that granting the claim will not preclude relief to claimant’s wife or husband) shall cease to have effect.
- 62 In section 241(7) of the Gains Act (apportionments where a letting relates only in part to holiday accommodation) for “appear to the inspector, or on appeal the Commissioners, to be” there shall be substituted “are”.
- 63 (1) In section 271 of the Gains Act (miscellaneous exemptions) in subsections (1)(g) and (2), for “such extent as the Board are satisfied” there shall be substituted “the extent”.
- (2) In subsection (2) of that section, in the second paragraph, the words “the Board are satisfied that” shall cease to have effect.
- 64 In section 279(1) of the Gains Act (claimant for deduction in respect of gains accruing from the disposal of foreign assets must show that conditions in subsection (3) are satisfied) for paragraph (b) there shall be substituted—
- “*(b) the person charged or chargeable makes a claim, and*
- (c) the conditions set out in subsection (3) below are, so far as applicable, satisfied as respects those gains (“the qualifying gains”);”*
- 65 In section 280 of the Gains Act (payment of tax by instalments where consideration payable by instalments) for “if the person making the disposal satisfies the Board that he would otherwise suffer undue hardship, the tax on a chargeable gain accruing on the disposal may, at his option,” there shall be substituted “at the option of the person making the disposal, the tax on a chargeable gain accruing on the disposal may”.

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- 66 (1) Schedule 6 to the Gains Act (retirement relief) shall be amended in accordance with the following provisions of this paragraph.
- (2) In paragraph 3, in sub-paragraphs (1), (3) and (4) (under each of which a person is treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied as there mentioned)—
- (a) the words “on production of such evidence as the Board may reasonably require, the Board are satisfied” shall cease to have effect, and
 - (b) for “that he” (in each place where those words occur) there shall be substituted “he”.
- (3) At the end of that paragraph there shall be added—
- “(5) In any case where—
- (a) an officer of the Board gives notice to any person under section 9A(1) of, or paragraph 5(1) of Schedule 1A to, the Management Act (notice of intention to enquire into a return or claim or an amendment of a return or claim), and
 - (b) the enquiry to any extent relates to the question whether or not a person falls to be treated as having retired on ill-health grounds by virtue of the foregoing provisions of this paragraph,
- then, without prejudice to any other powers of such an officer in relation to such an enquiry, an officer of the Board may at the same or any subsequent time by notice in writing require that person, within such time (which shall not be less than 30 days) as may be specified in the notice, to produce such evidence relating to the question mentioned in paragraph (b) above as may reasonably be specified in the notice.”
- (4) In paragraph 10 (limitation of retirement relief in certain cases)—
- (a) in sub-paragraph (1) for “appears to the Board to be” there shall be substituted “is”; and
 - (b) in sub-paragraph (2) for “the Board shall have regard” there shall be substituted “regard shall be had”.
- 67 In Schedule 8 to the Gains Act (leases) in paragraph 10(2) (presumption as to sums being paid by way of premium unless the contrary is shown) for the words following “in so far as” there shall be substituted “other sufficient consideration for the payment can be shown to have been given”.