

SCHEDULES

SCHEDULE 5

RENT AND OTHER RECEIPTS FROM LAND

PART II

TREATMENT OF LOSSES

- 31 In Chapter VI of Part XVII of the Taxes Act 1988 (tax avoidance: miscellaneous provisions), after section 768C insert—

“768D Change in ownership of company carrying on property business.

- (1) This section applies where there is a change in the ownership of a company carrying on a Schedule A business and—
 - (a) in the case of an investment company, either—
 - (i) paragraph (a), (b) or (c) of section 768B(1) applies, or
 - (ii) section 768C applies;
 - (b) in the case of a company which is not an investment company, paragraph (a) or (b) of section 768(1) applies.
- (2) Where this section applies the following provisions have effect to prevent relief being given under section 392A by setting a Schedule A loss incurred by the company before the change of ownership against profits arising after the change.
- (3) The accounting period in which the change of ownership occurs is treated for that purpose as two separate accounting periods, the first ending with the change and the second consisting of the remainder of the period.
- (4) The profits or losses of the period in which the change occurs are apportioned to those two periods—
 - (a) in the case of an investment company—
 - (i) where paragraph (a), (b) or (c) of section 768B(1) applies, in accordance with Parts II and III of Schedule 28A, or
 - (ii) where section 768C applies, in accordance with Parts V and VI of that Schedule, and
 - (b) in the case of a company which is not an investment company, according to the length of the periods,
unless in any case the specified method of apportionment would work unjustly or unreasonably in which case such other method shall be used as appears just and reasonable.

Status: This is the original version (as it was originally enacted).

- (5) Relief under section 392A(1) against total profits of the same accounting period is available only in relation to each of those periods considered separately.
- (6) A loss made in any accounting period beginning before the change of ownership may not be set off under section 392A(2) against, or deducted by virtue of section 392A(3) from—
 - (a) in the case of—
 - (i) an investment company where paragraph (a), (b) or (c) of section 768B(1) applies, or
 - (ii) a company which is not an investment company, profits of an accounting period ending after the change of ownership;
 - (b) in the case of an investment company where section 768C applies, from so much of those profits as represents the relevant gain within the meaning of that section.
- (7) Subsections (8) and (9) of section 768 (time limits for assessment; information powers) apply for the purposes of this section as they apply for the purposes of that section.
- (8) In this section—
 - (a) any reference to a case where paragraph (a) or (b) of section 768(1) applies includes the case where that paragraph would apply if the reference there to a trade carried on by the company were to a Schedule A business carried on by it;
 - (b) “investment company” has the same meaning as in Part IV.
- (9) The provisions of this section apply in relation to an overseas property business as they apply in relation to a Schedule A business.”.