



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART III

SCHEDULE A, AND ASSOCIATED CHARGES UNDER SCHEDULE D

Deductions and allowances

71 Deductions: introductory

(1) In computing for the purposes of Schedule A the profits or gains arising to a person in any chargeable period, such deductions shall be made from any rents or receipts to which he becomes entitled in the period as are provided for by sections 72 to 77 below, subject however to the provisions of Schedule 2 to this Act.

(2) In those sections and that Schedule—

references to a lease extend only to a lease conferring a right, as against the person whose interest is subject to the lease, to the possession of premises,

" rent " includes a payment made by the tenant to defray the cost of work of maintenance of, or repairs to, the demised premises, not being work required by the lease to be carried out by the tenant, and

" tenant's repairing lease " means a lease where the lessee is under an obligation to maintain and repair the whole, or substantially the whole, of the premises comprised in the lease;

and for the purposes of the said sections and Schedule, a lease shall be taken to be at a full rent if the rent reserved under the lease (including an appropriate sum in respect of any premium under the lease) is sufficient, taking one year with another, to defray the cost to the lessor of fulfilling his obligations under the lease and of meeting any expenses of maintenance, repairs, insurance and management of the premises subject to the lease which fall to be borne by him.

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72 Deductions from rents: general rules

- (1) The deductions which, by virtue of section 71(1) above, may be made from rent to which a person (hereinafter referred to as "the person chargeable") becomes entitled under a lease shall be such deductions as are provided by subsections (2) to (6) below of the amounts of payments made by him—
- (a) in respect of maintenance, repairs, insurance or management,
 - (b) in respect of any services provided by him otherwise than by way of maintenance or repairs, being services which he was obliged to provide but in respect of which he received no separate consideration,
 - (c) in respect of rates or other charges on the occupier which the person chargeable was obliged to defray,
 - (d) in respect of any rent, rentcharge, ground annual, feu duty or other periodical payment reserved in respect of, or charged on or issuing out of, land:

Provided that this subsection shall not apply to any payment of interest.

- (2) From rent to which the person chargeable becomes entitled in a chargeable period, there may be deducted the amount of any such payment as aforesaid which became due in that period, or at an earlier time falling within the currency of the lease, in so far as the payment—
- (a) was made in respect of the premises comprised in the lease, and
 - (b) in the case of a payment for maintenance or repairs, was incurred by reason of dilapidation attributable to a period falling within the currency of the lease or, in the case of any other payment, was incurred in respect of such a period :

Provided that where the person chargeable became the landlord after the lease began, references in this subsection to the currency of the lease shall not include any time before he became the landlord.

- (3) In the case of a lease at a full rent, subsection (2) above shall apply as if references to the currency of the lease included any period (hereinafter referred to as "a previous qualifying period")—
- (a) during which the person chargeable was the landlord in relation to a previous lease of the premises, being a lease at a full rent, or
 - (b) which was a void period beginning either with the termination of a previous such lease as aforesaid or with the acquisition by the person chargeable of the interest in the premises giving him the right to possession thereof,

so however that a period shall not be a previous qualifying period if it preceded a period ending before the beginning of the lease which was not itself a previous qualifying period.

Where during any period the conditions necessary for the period to be a previous qualifying period were fulfilled as respects part of the premises, but not the whole, the period shall be treated as a previous qualifying period as respects that part of the premises only, and this subsection shall apply accordingly, any necessary apportionment being made of rent, payments or other matters.

- (4) In the case of a lease at a full rent, not being a tenant's repairing lease, there may also be deducted the amount of any payment made in respect of other premises by the person chargeable—
- (a) in so far as that amount could be deducted under subsections (2) and (3) above from rent to which he became entitled in the chargeable period under a lease

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- of those other premises, being a lease at a full rent, or could be so deducted if that rent were not insufficient, or
- (b) if any part of the chargeable period is, in respect of those other premises, a void period beginning with the termination of a lease at a full rent, in so far as the amount could be deducted as aforesaid if the lease had continued until the end of that period.
- (5) Where by reason of any change of circumstances a lease ceases to be, or becomes, a tenant's repairing lease, or ceases to be, or becomes, a lease at a full rent, subsections (3) and (4) above shall apply in relation to the lease as it subsists after the change of circumstances as if it were a new lease granted when the change occurred.
- (6) Where the person chargeable retains possession of a part of any premises and that part is used in common by persons respectively occupying other parts of the premises, subsections (1) to (5) above shall apply as if a payment made in respect of the part used in common had been made in respect of those other parts.
- (7) In subsections (3) and (4) above "void period " means a period during which the person chargeable was not in occupation of the premises or any part thereof, but was entitled to possession thereof.

73 Deductions from rents: land managed as one estate

- (1) Where this section applies to an estate for a chargeable period, the owner shall be treated—
- (a) in relation to a part of the estate which for any portion of that period is not comprised in a lease under which he is the landlord, as if he were entitled under a lease of that part at a full rent (not being a tenant's repairing lease) to rent for the said portion, becoming due from day to day, at a rate per annum equal to the annual value of that part ascertained in accordance with section 531 of this Act, and
 - (b) in relation to a part of the estate which for any portion of the said period is comprised in a lease under which he is the landlord, not being a lease at a full rent, as if the lease were at a full rent, and as if the rent so far as it relates to that part were at a rate per annum not less than the annual value of that part ascertained as aforesaid,

and section 72 above shall apply accordingly:

Provided that—

- (i) a payment relating to premises comprised in the estate shall not be deductible from rent in respect of premises not so comprised, and
 - (ii) paragraph (a) above shall not apply to premises occupied by the owner wholly and exclusively for purposes connected with the management of the estate or for the purposes of a trade, profession or vocation.
- (2) This section shall apply to an estate if, at the end of the year 1962-63, the land then comprised therein was managed as one estate and the owner for the time being of the estate by notice in writing to the inspector so elects, but such an election—
- (a) must be made within twelve months after the end of the first chargeable period for which the person making it became entitled to make it or such further time as the Board may allow,

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- (b) except in the case of the first election that can be made under this subsection, shall not have effect unless the like election has had effect as respects the immediately preceding ownership, and
 - (c) shall apply in relation to the estate throughout the ownership of the person making it.
- (3) Where in any chargeable period the estate comprises premises not included in it at the end of the year 1962-63, subsection (1) above (except the proviso) shall apply in relation to the chargeable period as if the premises were not included in the estate in that period:

Provided that where at the end of the year 1962-63 the owner of the remainder of the estate, as then subsisting, was entitled under trusts arising under a settlement or on an intestacy, or was entitled (in Scotland) under a disposition by way of liferent and feu, to an interest such that, on the occurrence of some future event or events, he might become the owner of the said premises, this subsection shall not apply to the premises if at any time before the end of that year the premises and the remainder of the estate, as then subsisting, were together managed as one estate.

- (4) In this section "estate" means land in one ownership managed as one estate.

74 Deductions from receipts other than rent

- (1) Where a person becomes entitled in a chargeable period to a sum other than rent payable under a lease, the deductions to be made from that sum by virtue of section 71(1) above shall be such amounts (if any) as are expressed to be deductible under subsection (2) below.
- (2) There shall be deductible—
- (a) so much of any payment made by that person as was made in respect of maintenance, repairs, insurance or management of premises to which the sum relates and constituted an expense of the transaction under which he became entitled to that sum,
 - (b) so much of any rent, rentcharge, ground annual, feu duty or other periodical payment made by that person as was reserved in respect of, or was charged upon or issued out of, premises to which the sum relates and constituted an expense of that transaction,
 - (c) so much of any other payment made by that person as constituted an expense of that transaction, not being an expense of a capital nature, and
 - (d) where, in or before the chargeable period, that person entered into any like transaction, any amount which, under paragraphs (a) to (c) above, is deductible from a sum to which he is entitled under that like transaction in the period, or was deductible from a sum to which he was so entitled in a previous chargeable period but has not been deducted.

75 Sporting rights

- (1) Where the person entitled to possession of any land is in the practice of granting sporting rights over the land for payment, but, in any year of assessment, such rights are for any reason not granted by him, the aggregate of any amounts paid by him which, if such rights had been granted in the year, would have been deductible under section 74 above from payments receivable by him in respect of the grant shall be treated for the purposes of section 72(4) above as a deduction which, by virtue of

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subsection (2) of the said section 72, might have been made by him from rent to which he was entitled for that year under a lease of the land, being a lease at a full rent:

Provided that if in the year sporting rights over the land are exercised—

- (i) by that person, or
- (ii) by any other person at his invitation, or
- (iii) where the first-mentioned person is a close company, by a person who is, within the meaning of Chapter III of Part XI of this Act, a director of, or a participator in, that company,

the aggregate of the said amounts shall be treated as reduced by an amount equal to the price which might reasonably be expected to have been paid for that exercise of the rights if the person exercising them had had to give full consideration therefor.

- (2) For the purposes of the proviso to subsection (1) above, an exercise of sporting rights shall be disregarded if it gives rise to a charge to tax under Schedule E by virtue of section 196 of this Act (benefits to directors etc).
- (3) Where the person first-mentioned in subsection (1) above is a company, section 250(1) of this Act shall not have effect so as to require references therein to a year of assessment to be read as references to an accounting period, but any deduction thereby authorised shall be apportioned between the accounting periods (if more than one) comprising the year of assessment.
- (4) In this section " sporting rights " means rights of fowling, shooting or fishing, or of taking or killing game, deer or rabbits.

76 Expenditure on making sea walls

- (1) Where in any year of assessment the owner or tenant of any premises incurs expenditure in the making of any sea wall or other embankment necessary for the preservation or protection of the premises against the encroachment or overflowing of the sea or any tidal river, he shall be treated for the purposes of sections 72 and 74 above and section 77 below as making in that year of assessment and in each of the succeeding twenty years of assessment a payment in relation to the premises preserved or protected by the embankment of an amount equal to a twenty-first part of the expenditure and incurred in respect of dilapidation attributable to the year.
- (2) Where the whole of that person's interest in the premises or any part thereof is transferred (whether by operation of law or otherwise) to some other person—
 - (a) the amount of the payment which he would be so treated as making for the year of assessment in which the transfer takes place shall be treated as being made partly by the transferor and partly by the transferee, as may be just, and
 - (b) the transferee shall, to the exclusion of the transferor, be treated in any subsequent year—
 - (i) where the interest transferred is in the whole of the premises, as having made the whole of the payment for that year, and
 - (ii) where the interest transferred is in part only of the premises, as having made so much of the payment for the year as is properly referable to that part of the premises.
- (3) For the purposes of subsection (2) above, where an interest in any premises is a lease and that lease comes to an end, that interest shall be deemed to have been transferred—

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- (a) if an incoming lessee makes any payment to the outgoing lessee in respect of the embankment in question, to the incoming lessee, and
 - (b) in any other case, to the owner of the interest in immediate reversion on the lease and, in relation to Scotland, the expression " the owner of the interest in immediate reversion on the lease " shall be construed as a reference to the landlord.
- (4) In relation to a company, section 250(1) of this Act shall not have effect so as to require references in this section to a year of assessment to be read as references to an accounting period, but any deduction authorised by this section shall be apportioned between the accounting periods (if more than one) comprising the year of assessment, other than any such period ended before the expenditure is incurred, or transfer takes place, by virtue of which the company is entitled to the deduction.
- (5) This section shall not apply in relation to any expenditure in respect of which a capital allowance has been made.

77 **Deductions: supplemental**

- (1) Subject to subsections (2) to (5) below, where a sum or part of a sum deductible under the provisions of sections 72 to 76 above and Schedule 2 to this Act can be deducted for the chargeable period in which the sum is paid, it shall be so deducted, and, where it cannot, it shall be deducted for the earliest chargeable period for which it can be deducted.
- (2) Where for any chargeable period the amount from which deductions can be made under the said provisions is sufficient to allow the deduction therefrom of some, but not all, of different sums or parts of sums deductible under those provisions, the sum or parts to be deducted for that period shall in the aggregate be equal to the said amount, and, subject to that requirement, shall be such as the person whose liability to tax is in question may choose.
- (3) No deduction shall be made under the said provisions in respect of—
- (a) a payment made by any person, to the extent to which the payment has been, or will be—
 - (i) balanced by the receipt of insurance moneys, or
 - (ii) recovered from, or in any other manner borne by, some other person, otherwise than by means of an amount on the profits or gains arising from which the first-mentioned person would be chargeable under Schedule A, or
 - (b) a payment made by a person other than a company, if payable under deduction of income tax.
- (4) An amount, or part of an amount, shall not be deducted under the said provisions more than once from any sum, or from more than one sum, and shall not in any case be deducted thereunder if it has been otherwise allowed as a deduction in computing the income of any person for tax purposes.
- (5) Where, on account of a payment made in any chargeable period, a deduction falls to be made under the said provisions from any rents or receipts to which the person making the payment became entitled in a previous period, all such adjustments of liability to tax shall be made, by repayment or otherwise, as may be necessary to give effect to the deduction.

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78 Capital allowances for machinery and plant used in estate management

- (1) Subject to the provisions of this section, Chapter II of Part I of the Capital Allowances Act 1968, and such other provisions of the Tax Acts as relate to allowances or charges under that Chapter, shall apply with any necessary adaptations in relation to machinery or plant provided for use or used by a person entitled to rents or receipts falling within Schedule A for the maintenance, repair or management of premises in respect of which those rents or receipts arise as they apply in relation to machinery or plant provided for use or used for the purposes of a trade; and, except as provided by subsection (2) below, in relation to any allowances and balancing charges which fail to be made by virtue of this section, the Tax Acts shall apply as if they were to be made in taxing a trade.
- (2) Allowances and balancing charges which by virtue of this section fall to be made to or on a person for any chargeable period shall be made by—
 - (a) adding the amount of any such allowances to the expenditure on maintenance, repairs and management of the premises which is deductible under section 72 or 74 above in computing his profits or gains for the purposes of Schedule A, and
 - (b) deducting the amount on which any such charge is to be made from that expenditure (or from the sum of that expenditure and any addition made to it under this subsection);and section 46 of the Capital Allowances Act 1968 (manner of making allowances and charges under Chapter II) shall not apply:

Provided that any charge shall be made under Case VI of Schedule D if or in so far as a deduction cannot be made for it under paragraph (b) above.
- (3) No allowance, other than an investment allowance, and no balancing charge shall be made by virtue of this section for any chargeable period in respect of expenditure incurred by any person on machinery or plant, except in pursuance of an election made by him for that period; but an election for any chargeable period shall have effect as an election for that and all subsequent chargeable periods.
- (4) An election under subsection (3) above shall be made by notice in writing to the inspector, either for all machinery or plant provided for use or used for the maintenance, repair or management of the relevant premises or for any class of machinery or plant so provided or used ; but an election for machinery or plant of any class shall not be made for any chargeable period after payments made in that or a subsequent chargeable period for the maintenance, repair or management of the relevant premises have been taken into account in an assessment or claim to repayment of tax which has been finally determined.
- (5) Corresponding allowances or charges in the case of the same machinery or plant shall not be made under Chapter II of Part I of the Capital Allowances Act 1968 (whether for the same chargeable period or for different chargeable periods) both in computing profits or gains for the purposes of Schedule A and in some other way; and, on any assessment to tax, expenditure to which an election under this section applies shall not be taken into account otherwise than under the said Chapter II.
- (6) The Tax Acts shall have effect as if this section were contained in Chapter II of Part I of the Capital Allowances Act 1968.

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79 Agricultural land: allowance for excess maintenance etc expenditure

- (1) Where in the case of an estate which consists of or includes agricultural land—
- (a) provision is made in sections 71 to 78 above for the deduction of a sum in respect of payments in the chargeable period for maintenance, repairs, insurance or management of the estate, or in respect of allowances for machinery or plant provided for use or used on the estate, and
 - (b) owing to the insufficiency of rents and receipts to which the owner of the estate becomes entitled in the period, whether from the estate or from other property, the sum in question cannot be deducted (other amounts deductible under Schedule A being treated as deductible in priority thereto),

the said sum shall be treated as if it were the amount of an allowance falling to be made under the Capital Allowances Act 1968 by way of discharge or repayment of tax, and available primarily against agricultural income as defined in section 69 of that Act; and sections 71 and 74 of the said Act of 1968 shall apply as if this section were contained in Part I of that Act:

Provided that the sum to be so treated shall not exceed the sum which would have fallen to be so treated if—

- (i) the estate had not included such parts thereof as were used wholly for purposes other than purposes of husbandry, and
- (ii) payments or allowances in respect of parts thereof which were used partly for purposes of husbandry and partly for other purposes were reduced to an extent corresponding to the extent to which those parts were used for other purposes.

- (2) In this section—

" agricultural land " means land, houses or other buildings in the United Kingdom occupied wholly or mainly for the purpose of husbandry, and

" estate " means any land (including any houses or other buildings) managed as one estate.