



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART III

SCHEDULE A, AND ASSOCIATED CHARGES UNDER SCHEDULE D

The Schedule A charge

67 Schedule A

(1) The Schedule referred to as Schedule A is as follows:—

“SCHEDULE A

- 1 Tax under this Schedule shall be charged on the annual profits or gains arising in respect of any such rents or receipts as follow, that is to say—
 - (a) rents under leases of land in the United Kingdom,
 - (b) rentcharges, ground annuals and feu duties, and any other annual payments reserved in respect of, or charged on or issuing out of, such land, and
 - (c) other receipts arising to a person from, or by virtue of, his ownership of an estate or interest in or right over such land or any incorporeal hereditament or incorporeal heritable subject in the United Kingdom.
- 2 Tax under this Schedule shall be charged by reference to the rents or receipts to which a person becomes entitled in the chargeable period.

Exceptions

- 3 Paragraph 1 above does not apply—
 - (a) to any yearly interest, or
 - (b) to any profits or gains charged to tax under Schedule D by virtue of section 112 of this Act (mines, quarries and other concerns), or

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(c) to any payment so charged by virtue of section 156 or 157 of this Act (mining etc. rents and royalties);

and the said paragraph has effect subject also to the provisions of section 140 of this Act with respect to tied premises.

4 Where rent is payable under a lease under which the tenant is entitled to the use of furniture, and tax in respect of the payment for its use is chargeable under Case VI of Schedule D, tax in respect of the rent shall be charged under the said Case VI instead of under this Schedule unless the landlord elects that this paragraph shall not apply.”

- (2) An election that paragraph 4 of Schedule A shall not apply shall be made by notice in writing to the inspector given within two years after the end of the chargeable period; and where such notice is given, any adjustment of the liability to tax of the person giving it which is required in consequence thereof may be made by an assessment, or by repayment or otherwise, as the case may require.
- (3) Profits or gains arising in any chargeable period from payments for any easement over or right to use any land made to the person who occupies the land shall not be excluded from the charge to tax under Schedule A by reason only that he is chargeable with respect to the land under Schedule B, but shall be treated for the purposes of Schedule A as limited to the amount (if any) by which they exceed the assessable value for the purposes of Schedule B of his occupation of the land in that period.

68 Persons chargeable

- (1) Income tax under Schedule A shall be charged on and paid by the persons receiving or entitled to the profits or gains in respect of which tax under that Schedule is directed by the Income Tax Acts to be charged.
- (2) For the purposes of corporation tax, the provisions of Chapter I of Part XI of this Act have effect to the exclusion of subsection (1) above.

69 Assessment

- (1) The profits or gains arising to a person for any chargeable period which are assessable to tax under Schedule A may, if they arise from more than one source, be assessed in one or more assessments, and, in the latter case, each assessment may relate to profits or gains from one or more sources.
- (2) Where an assessment to income tax under Schedule A for any year of assessment is made in that year—
- (a) it shall be made on the basis that all sources of income and all amounts relevant in computing profits or gains are the same as for the last preceding year of assessment, and
 - (b) tax shall be leviable accordingly, but any necessary adjustments shall be made after the end of the year, whether by way of assessment, repayment of tax or otherwise, to secure that tax is charged by reference to the rents or receipts to which the person assessed becomes entitled in the year of assessment:

Provided that if before the 1st January in any year a person delivers a statement in writing to the inspector—

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(i) showing that since the beginning of the last preceding year of assessment he has ceased to possess one or more sources of income chargeable under Schedule A, and

(ii) giving the aggregate of the rents and receipts relevant for the purposes of Schedule A to which he has become or is likely to become entitled in the current year, and

(iii) showing that that aggregate is less than the aggregate of such rents and receipts to which he became entitled in the last preceding year, and that it would not have been less if he had not ceased to possess the said source or sources,

then, if the inspector is satisfied as to the correctness of the declaration, an assessment made on that person in the current year shall be made on an amount which bears to the amount arrived at under paragraph (a) above the same proportion as the said aggregate for the current year bears to the said aggregate for the last preceding year, and paragraph (b) above shall apply accordingly.

70 Collection from lessees and agents

- (1) Where any tax under Schedule A is charged in respect of profits or gains arising from any land to a person who is not the occupier of the land, but the tax is not paid by that person (in this subsection referred to as " the person in default"), it may be recovered in accordance with the following provisions:—
- (a) subject to paragraph (b) below, the collector may from time to time by notice in writing, in such form as may be prescribed by the Board, require any lessee of the land or any part thereof whose interest is derived (directly or indirectly) from that held by the person in default (in this subsection referred to as " a derivative lessee ") to make to him payment, on the date or dates specified in the notice, of such sum or sums as may be required to satisfy the tax ;
 - (b) the sum demanded from a derivative lessee to be paid during any period shall not exceed the amount of the rent or other payments arising out of the land which becomes due from him at the end of the period and payable to the person in default or to another derivative lessee;
 - (c) in default of payment by a derivative lessee of any amount duly demanded of him under this subsection, that amount may be recovered from him in like manner as if he had been charged with tax of that amount;
 - (d) where any sum on account of tax has been collected from a derivative lessee in pursuance of this subsection, he may deduct that sum from any subsequent payment arising as aforesaid and payable to the person in default or to another derivative lessee, and shall be acquitted and discharged of the amount so deducted;
 - (e) where under paragraph (d) above, or under that paragraph as applied by this paragraph, a sum is deducted from an amount payable to another derivative lessee, that paragraph shall apply as if the sum had been collected from him under a demand made under this subsection by the collector, and, where the amounts from which under that paragraph he is entitled to make deductions in respect of that sum during the following twelve months are less than that sum, he shall be entitled to recover from the Board an amount equal to the difference, which shall be treated as reducing the tax recovered under this subsection.
- (2) Where any person (hereinafter referred to as " the agent") is in receipt of rents or receipts from land on behalf of another person (hereinafter referred to as " the

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principal"), and any tax under Schedule A charged on the principal has not been paid, the collector may by notice in writing, in such form as may be prescribed by the Board, require the agent to pay to the collector in or towards the satisfaction of the tax any sums from time to time received by the agent on behalf of the principal on account of rents or receipts from any land (including any sums so received which are in his hands when the notice is given) until the liability in respect of the tax has been satisfied; and the agent shall pay all such sums over to the collector accordingly, and the payment shall acquit and discharge him as against the person on whose behalf he received them.

If the agent fails to comply with the requirements of a notice duly served on him, he shall be liable to a penalty not exceeding £50 for each failure, non-compliance as respects sums in his hands when the notice is given, or as respects any one payment subsequently received by him, being treated as a separate failure.

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.

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,

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- (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 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.

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- (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,
 - (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

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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 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.

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- (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—
 - (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.

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- (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.

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.

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- (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.

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),

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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.

Premiums, leases at undervalue etc. (Schedules A and D)

80 Treatment of premiums etc. as rent or Schedule D profits

- (1) Where the payment of any premium is required under a lease, or otherwise under the terms subject to which a lease is granted, and the duration of the lease does not exceed fifty years, the landlord shall be treated for the purposes of the Tax Acts as becoming entitled when the lease is granted to an amount by way of rent (in addition to any actual rent) equal to the amount of the premium reduced by one-fiftieth of that amount for each complete period of twelve months (other than the first) comprised in the duration of the lease.
- (2) Where the terms subject to which a lease is granted impose on the tenant an obligation to carry out any work on the premises, the lease shall be deemed for the purposes of this section to have required the payment of a premium to the landlord (in addition to any other premium) of an amount equal to the amount by which the value of the landlord's estate or interest immediately after the commencement of the lease exceeds what its then value would have been if the said terms did not impose that obligation on the tenant:

Provided that this subsection shall not apply in so far as the obligation requires the carrying out of work payment for which would, if the landlord and not the tenant were obliged to carry it out, be deductible from the rent under sections 72 to 76 above.

- (3) Where, under the terms subject to which a lease is granted, a sum becomes payable by the tenant in lieu of the whole or a part of the rent for any period, or as consideration for the surrender of the lease, the lease shall be deemed for the purposes of this section to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum; but—
 - (a) in computing tax chargeable by virtue of this subsection in respect of a sum payable in lieu of rent, the duration of the lease shall be treated as not including any period other than that in relation to which the sum is payable, and

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- (b) notwithstanding anything in subsection (1) above, rent treated as arising by virtue of this subsection shall be deemed to become due when the sum in question becomes payable by the tenant.
- (4) Where, as consideration for the variation or waiver of any of the terms of a lease, a sum becomes payable by the tenant otherwise than by way of rent, the lease shall be deemed for the purposes of this section to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum ; but—
- (a) in computing tax chargeable by virtue of this subsection, the duration of the lease shall be treated as not including any period which precedes the time at which the variation or waiver takes effect, or falls after the time at which it ceases to have effect, and
 - (b) notwithstanding anything in subsection (1) above, rent treated as arising by virtue of this subsection shall be deemed to become due when the contract providing for the variation or waiver is entered into.
- (5) Where a payment falling within subsection (1), (3) or (4) above is due to a person other than the landlord, no charge to tax shall arise under that subsection, but any amount which would otherwise fall to be treated as rent shall be treated as profits or gains of that other person chargeable under Case VI of Schedule D:
- Provided that where the amount relates to a payment falling within subsection (4) above, it shall not be so treated unless the payment is due to a person who is, within the terms of section 533 of this Act, connected with the landlord.
- (6) Where an amount by reference to which a person is chargeable to tax by virtue of this section is payable by instalments, the tax chargeable by reference to that amount shall, if he makes a claim in that behalf by notice in writing not later than one year after the chargeable period in which he becomes entitled to the first such instalment, instead of being computed in accordance with the preceding provisions of this section, be computed as if each instalment were rent payable under the lease, or, in the case of instalments payable to a person other than the landlord or to a person after he has ceased to be the landlord, were profits or gains chargeable to tax under Case VI of Schedule D; and where a claim is so made, all such assessments, alterations of assessments and repayments of tax shall be made as may be necessary.
- (7) Section 69(2) above shall not apply in relation to amounts which, in computing profits or gains for the purposes of Schedule A, are relevant only by virtue of this section.

81 Schedule D charge on assignment of lease granted at undervalue

- (1) Where the terms subject to which a lease of a duration not exceeding fifty years was granted are such that the grantor, having regard to values prevailing at the time it was granted, and on the assumption that the negotiations for the lease were at arm's length, could have required the payment of an additional sum (hereinafter referred to as " the amount foregone ") by way of premium, or additional premium, for the grant of the lease, then, on any assignment of the lease for a consideration—
- (a) where the lease has not previously been assigned, exceeding the premium (if any) for which it was granted, or
 - (b) where the lease has been previously assigned, exceeding the consideration for which it was last assigned,

the amount of the excess, in so far as it is not greater than the amount foregone reduced by the amount of any such excess arising on a previous assignment of the lease, shall,

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in the same proportion as the amount foregone would under section 80(1) above have fallen to be treated as rent if it had been a premium under the lease, be treated as profits or gains of the assignor chargeable to tax under Case VI of Schedule D.

- (2) If there is submitted to the inspector, by the grantor or any assignor or assignee of the lease, a statement showing whether or not a charge to tax arises or may arise under this section and, if so, the amount on which the charge arises or may arise, then, if the inspector is satisfied as to the accuracy of the statement, he shall certify the accuracy thereof.

82 Schedule D charge on sale of land with right to reconveyance

- (1) Where the terms subject to which an estate or interest in land is sold provide that it shall be, or may be required to be, reconveyed at a future date to the vendor or a person who is, within the terms of section 533 of this Act, connected with him, the vendor shall be chargeable to tax under Case VI of Schedule D on any amount by which the price at which the estate or interest is sold exceeds the price at which it is to be reconveyed, or, if the earliest date at which in accordance with those terms it would fall to be reconveyed is a date two years or more after the sale, on that excess reduced by one-fiftieth thereof for each complete year (other than the first) in the period between the sale and that date.
- (2) Where under the terms of the sale the date of the reconveyance is not fixed, then—
- (a) if the price on reconveyance varies with the date, the price shall be taken for the purposes of this section to be the lowest possible under the terms of the sale, and
 - (b) there shall be repaid to the vendor, on a claim made before the expiry of six years after the date on which the reconveyance takes place, any amount by which tax assessed on him by virtue of this section exceeded the amount which would have been so assessed if that date had been treated for the purposes of this section as the date fixed by the terms of the sale.
- (3) Where the terms of the sale provide for the grant of a lease directly or indirectly out of the estate or interest to the vendor or a person who is, within the terms of section 533 of this Act, connected with him, this section shall apply as if the grant of the lease were a reconveyance of the estate or interest at a price equal to the sum of the amount of the premium (if any) for the lease and the value at the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run:

Provided that this subsection shall not apply if the lease is granted, and begins to run, within one month after the sale.

83 Premiums paid etc.: deduction from premiums and rents received

- (1) Where in relation to any premises—
- (a) tax has become chargeable under the provisions of section 80 (except subsection (6)), 81 or 82 above on any amount (disregarding any reduction in that amount under this subsection), or
 - (b) tax would have become so chargeable on that amount but for the operation of the said section 80(6) or this subsection, or but for any exemption from tax,
- and, in respect of a lease granted out of, or a disposition of, the lease, estate or interest in respect of which tax so became or would have become chargeable on the said amount (hereinafter referred to as "the amount chargeable on the superior interest"),

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a person would apart from this subsection be chargeable under the said provisions on any amount (hereinafter referred to as "the later chargeable amount"), the amount on which he is so chargeable shall, where no claim is or can be made by him under the said section 80(6), be the excess (if any) of the later chargeable amount over the appropriate fraction of the amount chargeable on the superior interest.

Provided that where a person would, apart from this subsection, be so chargeable in respect of a lease or disposition which extends to a part only of the said premises, the amount on which he is so chargeable shall, where no claim is or can be made by him under the said section 80(6), be the excess (if any) of the later chargeable amount over so much of the appropriate fraction of the amount chargeable on the superior interest as, on a just apportionment, is attributable to that part of the premises.

- (2) Where in relation to any premises tax has or would have become chargeable as mentioned in subsection (1)(a) or (b) above in respect of a lease, estate or interest, then, subject to subsection (3) below, the person for the time being entitled to the lease, estate or interest shall be treated for the purpose of deductions under sections 72 and 73 above from rent receivable by him in respect of those or other premises as paying rent for those premises (in addition to any actual rent), becoming due from day to day, during any part of the period in respect of which the amount chargeable on the superior interest arose for which he was entitled to the lease, estate or interest, and in all bearing to that amount the same proportion as that part of the period bears to the whole.
- (3) Where subsection (1) above has effect in relation to a lease granted out of, or a disposition of, the lease, estate or interest in respect of which tax has or would have become so chargeable, subsection (2) above shall apply for the period in respect of which the later chargeable amount arose only if the appropriate fraction of the amount chargeable on the superior interest exceeds the later chargeable amount, and shall then apply as if the amount chargeable on the superior interest were reduced in the proportion which the said excess bears to the said appropriate fraction:

Provided that where the lease so granted, or the said disposition, extends to a part only of the premises, the said subsection (2) and this subsection shall be applied separately in relation to that part and to the remainder of the premises, but as if for any reference to the amount chargeable on the superior interest there were substituted a reference to that amount proportionately adjusted.

- (4) For the purposes of this section—
- (a) the appropriate fraction of the amount chargeable on the superior interest is the fraction
- $$\frac{A}{B}$$
- of that amount, where—
- A is the period in respect of which the later chargeable amount arose, and
B is the period in respect of which the amount chargeable on the superior interest arose ; and
- (b) the period in respect of which an amount arose—
- (i) where it arose under section 80 above, shall be the period treated in computing the amount as being the duration of the lease ;
- (ii) where it arose under section 81 above, shall be the period treated in computing the amount as being the duration of the lease remaining at the date of the assignment;

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- (iii) where it arose under section 82 above, shall be the period beginning with the sale and ending on the date fixed under the terms of the sale as the date of the reconveyance or grant, or, if that date is not fixed, ending with the earliest date at which the reconveyance or grant could take place in accordance with the terms of the sale.
- (5) Where the amount chargeable on the superior interest arose under section 80(2) above by reason of an obligation which included the carrying out of work in respect of which any capital allowance has fallen or will fall to be made, subsections (1) to (3) above shall apply as if the obligation had not included the carrying out of that work and the said amount had been calculated accordingly.
- (6) Where an amount relevant for the purposes of subsection (1), (2) or (3) above arose under section 82 above, and the reconveyance or grant in question takes place at a price different from that taken in calculating the amount, or on a date different from that taken in determining the period in respect of which the amount arose, that subsection shall be deemed to have had effect (for all relevant chargeable periods) as it would have had effect if the actual price or date had been so taken, and such adjustment of liability to tax shall be made, by means of an assessment or otherwise, as may be necessary, and may be so made at any time at which it could be made if it related only to tax for the chargeable period in which the reconveyance or grant takes place.
- (7) An amount, or part of an amount, shall not be deducted under this section 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.

84 Rules for ascertaining duration of leases

- (1) The following provisions shall have effect in ascertaining the duration of a lease for the purposes of sections 80 to 82 above—
 - (a) where the terms of the lease include provision for the determination of the lease by notice given by the landlord, the lease shall not be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice so given,
 - (b) where any of the terms of the lease (whether relating to forfeiture or to any other matter) or any other circumstances render it unlikely that the lease will continue beyond a date falling before the expiry of the term of the lease, the lease shall not be treated as having been granted for a term longer than one ending on that date, and
 - (c) where the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant, account may be taken of any circumstances making it likely that the lease will be so extended.
- (2) Subsection (1)(b) above shall be applied by reference to the facts which were known or ascertainable at the time of the grant of the lease, or, in relation to tax under section 80(4) above, at the time when the contract providing for the variation or waiver is entered into; and it shall be assumed in applying the said subsection (1)(b) that all parties concerned, whatever their relationship, act as they would act if they were at arm's length.
- (3) In relation to Scotland, the expression " term " in subsection (1) above, where referring to the duration of a lease, means " period ".

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- (4) The above provisions have effect subject to paragraph 3 of Schedule 14 to this Act (which confines them, except for certain specified purposes, to leases granted after 12th June 1969 and, in relation to section 80(4) above, variations or waivers under contracts entered into after that date); and where the above provisions do not have effect, the rules to be applied for the purpose mentioned in subsection (1) above are those set out in paragraph 4 of the said Schedule 14.

85 Saving for pre-1963 leases, and special relief for individuals

- (1) Nothing in sections 80 to 82 above shall apply in relation to a lease granted, or an estate or interest in land sold, before the beginning of the year 1963-64, or in pursuance of a contract entered into before 4th April 1963:

Provided that section 80(4) above shall apply to the variation or waiver of any terms of a lease (not being a variation or waiver made in pursuance of a contract entered into before 4th April 1963) notwithstanding that the lease was granted before the beginning of the year 1963-64.

- (2) Schedule 3 to this Act shall have effect for giving relief, on a claim being made by him in that behalf, from any increase in an individual's liability to income tax which is attributable to amounts being treated by virtue of section 80 (except subsection (6)), 81 or 82 above as receipts for a single year of assessment rather than as receipts for the period in relation to which they are chargeable.

Supplemental (Schedules A and D)

86 Tax treatment of receipts and outgoings on sale of land

- (1) Where by virtue of a contract for the sale of an estate or interest in land there falls to be apportioned between the parties a receipt or outgoing in respect of the estate or interest which becomes due after the making of the contract but before the time to which the apportionment falls to be made, and a part of the receipt is therefore receivable by the vendor in trust for the purchaser or, as the case may be, a part of the outgoing is paid by the vendor as trustee for the purchaser, the purchaser shall be treated for the purposes of tax under Schedule A as if that part had become receivable or payable on his behalf immediately after the time to which the apportionment falls to be made.
- (2) Where by virtue of such a contract there falls to be apportioned between the parties a receipt or outgoing in respect of the estate or interest which became due before the making of the contract, the parties shall be treated for the purposes of tax under Schedule A as if the contract had been entered into before the receipt or outgoing became due, and subsection (1) above shall apply accordingly.
- (3) Where on the sale of an estate or interest in land there is apportioned to the vendor a part of a receipt or outgoing in respect of the estate or interest which is to become receivable or be paid by the purchaser after the making of the apportionment, then, for the purposes of tax under Schedule A—
- (a) when the receipt becomes due or, as the case may be, the outgoing is paid, the amount of it shall be treated as reduced by so much thereof as was apportioned to the vendor, and
 - (b) the part apportioned to the vendor shall be treated as if it were of the same nature as the receipt or outgoing and had become receivable, or had been paid,

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directly by him immediately before the time to which the apportionment is made and, where it is part of an outgoing, had become due immediately before that time.

- (4) Any reference in subsection (1) or (2) above to a party to a contract shall include a person to whom the rights and obligations of that party under the contract have passed by assignment or otherwise.
- (5) This section shall apply as respects tax under Case VI of Schedule D in a case falling within paragraph 4 of Schedule A (furnished lettings) as it applies as respects tax under Schedule A in other cases.

87 Relief for rent etc. not paid

- (1) Where on a claim in that behalf a person proves—
 - (a) that he has not received an amount which he was entitled to receive in respect of any rents or receipts on the profits or gains arising from which he would be chargeable under Schedule A, and
 - (b) if the non-receipt of the said amount was attributable to the default of the person by whom it was payable, that the claimant has taken any reasonable steps available to him to enforce payment,
 - (c) if the claimant waived payment of the said amount, that the waiver was made without consideration, and was reasonably made in order to avoid hardship,the claimant shall be treated for tax purposes for all relevant chargeable periods as if he had not been entitled to the said amount, and such adjustment shall be made, by repayment or otherwise, as the case may require; but if all or any of the said amount is subsequently received, the claimant or, if he is dead, his executors or administrators shall, not later than six months thereafter, give notice in writing of its receipt to the inspector, and such re-adjustment of liability to tax (for all relevant chargeable periods) shall be made as may be necessary, and may be made at any time at which it could be made if it related only to tax for the chargeable period in which the amount, or the part of the amount, is received.
- (2) Subsection (1) above shall apply in relation to sums chargeable to tax under Case VI of Schedule D by virtue of any provision of sections 80 to 82 above as it applies to profits or gains chargeable to tax under Schedule A.

88 Allowances for betterment levy

Schedule 4 to this Act (effect of charges to betterment levy on charges to tax under Schedules A and D) shall have effect.

89 Non-residents

- (1) Section 78 of the Taxes Management Act 1970 (taxation of non-residents in name of agent) shall not apply to tax on profits or gains chargeable to tax under Schedule A, or on any of the profits or gains chargeable under Case VI of Schedule D—
 - (a) in a case falling within paragraph 4 of Schedule A, or
 - (b) which arise under the terms of a lease, but to a person other than the landlord, or otherwise arise out of any disposition or contract such that if they arose to the person making it they would be chargeable under Schedule A,

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where payment is made (whether in the United Kingdom or elsewhere) directly to a person whose usual place of abode is outside the United Kingdom, but section 53 of this Act shall apply in relation to the payment as it applies to annual payments charged with tax under Case III of Schedule D and not payable out of profits or gains brought into charge to income tax.

- (2) Subsection (1) above shall apply in relation to sums chargeable to tax under Case VI of Schedule D by virtue of any provision of sections 80 to 82 above as it applies to profits or gains chargeable to tax under Schedule A.
- (3) Where by virtue of subsection (1) above the income tax chargeable for any year of assessment on a person's profits or gains chargeable to tax under Schedule A or Case VI of Schedule D or both would, apart from this subsection, be greater than the tax which would be chargeable thereon apart from section 69(2) of this Act, then, on a claim in that behalf being made, relief shall be given from the excess, whether by repayment or otherwise.

90 Interpretation

- (1) In this Part of this Act, except where the context otherwise requires—
 - " assignment ", in relation to Scotland, means an assignation ;
 - " lease " includes an agreement for a lease, and any tenancy, but does not include a mortgage or heritable security, and " lessee ", " lessor " and " letting " shall be construed accordingly, and " lessee " and " lessor " include respectively the successors in title of a lessee or a lessor;
 - " premises " includes any land ;
 - " premium " includes any like sum, whether payable to the immediate or a superior landlord ;
 - " reversion ", in relation to Scotland, means the interest of the landlord in the property subject to the lease.
- (2) For the purposes of this Part of this Act any sum (other than rent) paid on or in connection with the granting of a tenancy shall be presumed to have been paid by way of premium except in so far as other sufficient consideration for the payment is shown to have been given.
- (3) In the application of this Part of this Act to Scotland " premium " includes in particular a grassum payable to any landlord or intermediate landlord on the creation of a sublease; and in this subsection "intermediate landlord" means, where an occupying lessee is a sub-lessee, any person for the time being holding the interest of landlord under a sub-lease which comprises the property of which the occupying lessee is sub-lessee, but does not include the immediate landlord.