

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1974, SCHEDULE 6. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 6

Section 40.

#### DEVELOPMENT LOSSES

##### Textual Amendments

- F1** Sch. 6 repealed by Finance Act 1985 (c. 54, SIF 63:1), s. 98(6) and Sch. 27 Part X in relation to disposals of interests in land taking place on or after 19 March Finance Act 1985 (c. 54, SIF 63:1), but without affecting the construction of 1979 (C) Sch. 5 para. 9(5).

##### Interpretation

- 1 (1) In this Schedule “the principal section” means section 40 of this Act.
- (2) Part I of Schedule 3 to this Act shall apply for the purposes of the principal section and this Schedule as it applies for the purposes of section 38 of this Act.

##### Losses accruing to persons not resident or ordinarily resident in the United Kingdom

- 2 A loss accruing to a person in a chargeable period during no part of which he is resident or ordinarily resident in the United Kingdom shall not be to any extent a development loss unless, under [section 12 of the Capital Gains Tax Act 1979 <sup>F2</sup>] as applied by paragraph 1 of Schedule 8 of this Act, he would (or would but for section 39(1) of this Act) be chargeable to income tax or corporation tax in respect of a development gain if there had been a gain instead of a loss on that occasion.

##### Textual Amendments

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

##### Modification of sections 176 and 179 of the Taxes Act (Case VI losses) in relation to development losses

- 3 In its application to a development loss in accordance with subsection (3) of the principal section—
- (a) section 176 of the Taxes Act shall have effect with the omission of so much of subsection (5) as precedes the words “but the question”; and
- (b) section 179 of that Act shall have effect with the omission of subsection (3).
- 4 Without prejudice to the following provisions of this Schedule, any development losses which have accrued to a person in any chargeable period shall under section 176 or, as the case may be, section 179 of the Taxes Act be deducted from or set off against—
- (a) first, any development gains accruing to him in that period;

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- (b) *secondly, any other profits or gains or income arising from transactions in respect of which he is assessed for that period under Case VI of Schedule D;*
  - (c) *thirdly, any development gains accruing to him in the first subsequent chargeable period;*
  - (d) *fourthly, any other profits or gains or income arising from transactions in respect of which he is assessed for the last-mentioned chargeable period under that Case,*
- and so on for each successive chargeable period.*

*Computation of development loss in cases where paragraph 11 or 12 of Schedule 3 would apply in computing a development gain*

- 5 *For the purpose of computing the development loss accruing to a person in respect of a disposal of an interest in land to which the principal section applies, being a disposal in relation to which paragraph 11 or 12 of Schedule 3 to this Act would (or would but for paragraph 13 of that Schedule) apply if a chargeable gain had accrued to him on the disposal, paragraphs 11, 12 and 14 (but not 13) of that Schedule shall have effect in relation to the disposal subject to the following modifications, that is to say—*
- (a) *paragraph 11(2) shall be omitted;*
  - (b) *in paragraphs 11(3) and 12(2), the references to the amount given by section 38(3)(c) of this Act shall be read as references to the amount given by section 40(4) of this Act; and*
  - (c) *in paragraph 11, for the word “exceeds”, wherever occurring, there shall be substituted the words “is less than”.*

*Computation of amount given by subsection (4) of principal section in certain cases within [paragraph 9(4) of Schedule 5 to the Capital Gains Tax Act 1979 <sup>F3</sup>]*

#### **Textual Amendments**

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

- 6 *Where an allowable loss accrues to a person on a disposal of an interest in land to which the principal section applies, being a disposal in relation to which [paragraph 9 of Schedule 5 to the Capital Gains Tax Act 1979 <sup>F4</sup>] (sales of land in United Kingdom reflecting development value) applies, then, if the amount of the loss is by virtue of sub-paragraph (4) of that paragraph computed without regard to [the said Schedule 5 <sup>F4</sup>] (assets held on 6 th April 1965), this Chapter shall have effect in relation to that disposal as if in subsection (4) of the principal section and paragraphs 11 and 12 of Schedule 3 to this Act ( as applied by paragraph 5 of this Schedule) any reference to the current use value of the interest at the time of its acquisition by the person making the disposal or, if the interest was acquired by him before 6 th April 1965, its current use value of that date referred only to its current use value at the time of its acquisition by him.*

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**Textual Amendments**

**F4** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

*Private residences*

- 7 *Where a claim under the principal section is made in respect of a disposal by an individual of an interest in land to which the principal section applies, being an interest such that [section 102(2) of the Capital Gains Tax Act 1979 <sup>F5</sup>] (private residences) would, apart from this paragraph, apply to the loss accruing to him on the disposal, paragraph 21(a) to (c) of Schedule 3 to this Act shall have effect in relation to the disposal subject to the following modifications, that is to say—*
- (a) *any reference to a chargeable gain shall be read as a reference to an allowable loss;*
  - (b) *any reference to a development gain shall be read as a reference to a development loss; and*
  - (c) *any other reference to a gain shall be read as a reference to a loss.*

**Textual Amendments**

**F5** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

*Set-off of development losses*

- 8 (1) *Where, in the case of any person, section 39(1) of this Act applies in relation to any chargeable period, then, if any development losses accrued to him in that period, they shall for the purposes of section 176 or 179 of the Taxes Act ( Case VI losses) be treated as reduced by the amount of the development gains which, but for the said section 39(1), would have accrued to him in the period in which the development losses accrued.*
- <sup>F6</sup>(2) .....
- (3) *For any year of assessment in which a married woman is living with her husband, they shall be treated for the purposes of this paragraph as one person.*

**Textual Amendments**

**F6** Schedule 6 para. 8(2) repealed by Finance Act 1976 (c.40), Sch. 15.

*Insurance companies*

- 9 (1) *Where, in the case of an insurance company carrying on life assurance business, a loss arising from general annuity business and attributable to a disposal of an interest in land to which the principal section applies falls (or would but for the following sub-paragraph fall) to be taken into account in the computation under section 312 of the Taxes Act (general annuity business and pension business: separate charge on profits), the development loss, if any, accruing to the company in respect of the disposal shall be computed as if [section 31(1) of the Capital Gains Tax*

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*Act 1979<sup>F7</sup>] (computation of chargeable gains: exclusion of sums taken into account in computing income) did not apply.*

*(2) Development losses shall be left out of account in computing under the said section 312 the profits arising to an insurance company from general annuity business and, accordingly, in subsection (2) of section 313 of the Taxes Act (general annuity business), after paragraph (a) there shall be inserted as paragraph (aa)—[for text see 1970 s.313(2)(aa)].*

*(3) This paragraph shall be construed as one with Chapter II of Part XII of the Taxes Act.]*

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**Textual Amendments**

**F7** Capital Gains Tax Act 1979 (c. 14, SIF 63:1), s. 157(2) and Sch. 7 para. 9 for 1979-80 et seq.

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