

SCHEDULE 1

Article 8(9) (b)

MEANING OF ASSOCIATED DISPOSAL

1. For the purposes of this Order, a disposal of relevant land or an interest in land made or to be regarded for those purposes as being made by a member of a chargeable company's group (referred to in this Schedule as "the first-mentioned disposal") will be treated as associated with another such disposal (referred to in this Schedule as "the second-mentioned disposal") whether or not the disposals are made or are to be regarded as being made at the same time if the first-mentioned disposal—

- (a) is reasonably to be regarded as being connected with the second-mentioned disposal;
- (b) is effected with a view to enabling the second-mentioned disposal to be effected or facilitating its being effected; or
- (c) is otherwise effected with reference to the second-mentioned disposal;

and, in a case where either or both of the first-mentioned disposal and the second-mentioned disposal is a section 278 disposal, this paragraph shall apply as if a reference to the disposal included a reference to the disposal or issue of shares as a result of which the disposal is treated as taking place.

2. For the purposes of sub-paragraph (a) of paragraph 1 above, the first-mentioned disposal is reasonably to be regarded as connected with the second-mentioned disposal if—

- (a) the disposals are made to the same person or to persons who are connected with each other;
- (b) where the first-mentioned disposal, but not the second-mentioned disposal, is a section 278 disposal, the person to whom the disposal or issue of shares is made as a result of which the first-mentioned disposal is treated as taking place and the person to whom the land or interest in land the subject of the second-mentioned disposal is disposed of are the same person or are connected persons; or
- (c) where both the first-mentioned disposal and the second-mentioned disposal are section 278 disposals, the persons to whom the disposal or issue of shares is made as a result of which those disposals are treated as taking place are the same person or are connected persons:

Provided that a disposal is not reasonably to be regarded as connected with another disposal by virtue of this paragraph if they are reasonably to be regarded as separate transactions by reference to the terms, dates and any other relevant aspects of the disposals.

3. For the purposes of paragraph 2 above, any question whether a person is connected with another shall be determined in accordance with the provisions of subsections (2) to (8) of section 839 of the 1988 Act.

SCHEDULE 2

Article 9

MODIFICATION OF TAX PROVISIONS APPLYING TO LEVY

1. Sections 267 and 268A of the 1970 Act⁽¹⁾ shall not apply for the purposes of section 17 of the 1991 Act and this Order.

2. Subsection (4) of section 21 of the 1979 Act shall apply for the purposes of section 17 of the 1991 Act and this Order as if the reference in it to the inspector were a reference to the appropriate Minister; and subsection (7) of that section shall not apply for those purposes.

(1) 1970 c. 10; section 267 was amended by the Finance Act 1990 (c. 29), section 65(1) and (4); and section 268A was inserted by the Finance Act 1977 (c. 36), section 42.

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3. Section 31(1) of the 1979 Act shall not apply for the purposes of section 17 of the 1991 Act and this Order.

4.—(1) Subject to sub-paragraph (2) below, paragraph (a) of section 32(1) of the 1979 Act shall, in relation to the computation of any gain accruing on the disposal of relevant land or a relevant interest in land (other than land or an interest in land acquired within the levy period), apply for the purposes of section 17 of the 1991 Act and this Order as if that paragraph referred, and referred only, to the market value of the land or interest disposed of for its existing use at the beginning of the levy period, that value being determined in accordance with valuation principles and methods provided for in paragraphs (7) and (8) of article 36 (and in this paragraph “existing use” means the purpose for which the land or interest is used at that time).

(2) This paragraph shall not apply in relation to any relevant land or relevant interest in land where there has, or there is to be regarded as having, been within the levy period a previous disposal of that land or interest from one member of the chargeable company’s group to another member of that group.

5.—(1) In the application, for the purposes of section 17 of the 1991 Act and this Order, of section 32(1) (b) of the 1979 Act there shall, in relation to relevant land and a relevant interest in land, be excluded from the sums allowable thereunder any expenditure incurred before the beginning of the levy period.

(2) Paragraphs (b) and (c) of section 32(1) of the 1979 Act shall apply for the purposes of section 17 of the 1991 Act and this Order as if—

- (a) in paragraph (b) the words “or in the market value” appeared after the words “in the state or nature”; and
- (b) paragraph (c) included a reference to the costs of obtaining a valuation for the purposes of—
 - (i) article 36(5); or
 - (ii) paragraph 6 or 7 of Schedule 3 to this Order.

6. Subsections (1) and (2) of section 33 of the 1979 Act shall not apply for the purposes of section 17 of the 1991 Act and this Order to a sum applied in the manner specified in paragraph (a) or (b) of subsection (1) of section 21 of the 1979 Act or in subsection (3), (4) or (5) of that section.

7. Sections 40(2) and 41(2) of the 1979 Act shall apply for the purposes of section 17 of the 1991 Act and this Order as if the references in those provisions to the inspector were references to the appropriate Minister.

8.—(1) In the application for the purposes of section 17 of the 1991 Act and this Order of subsection (4) of section 43 of the 1979 Act, the words from “and the method of apportionment” to the end of that subsection shall not apply; and, instead, the method of apportionment adopted for the purposes of any computation under Chapter II of Part II of the 1979 Act as applied for the purposes of section 17 of the 1991 Act and this Order shall, subject to the express provisions of that Chapter as so applied, be such method as appears to the appropriate Minister or, in the event of a dispute, to a referee to be just and reasonable.

(2) The said subsection (4) shall apply as if the words “necessary apportionments” referred to any apportionments which appear to the appropriate Minister or, in the event of a dispute (in which case article 38 shall apply for the purpose of resolving it), to a referee to be necessary for the purposes of this Order.

9. Section 108(4) of the 1979 Act shall apply for the purposes of section 17 of the 1991 Act and this Order as if the words “not being an estate or interest which is a wasting asset” were omitted.

10. Sections 111A and 115 to 121 of the 1979 Act⁽²⁾ shall not apply for the purposes of section 17 of the 1991 Act and this Order.

11. Section 113 of the 1979 Act shall not apply for the purposes of section 17 of the 1991 Act and this Order.

12.—(1) Section 87(2) of the Finance Act 1982⁽³⁾ shall apply for the purposes of section 17 of the 1991 Act and this Order as if in the definition of “RI” there were substituted for the reference to the retail prices index for March 1982 a reference to the retail prices index for the month in which the chargeable company’s levy period begins.

(2) For the avoidance of doubt section 68(4) of the Finance Act 1985⁽⁴⁾ shall not apply for the purposes of section 17 of the 1991 Act and this Order.

13. Sections 96 and 97 of, and Schedules 8 and 9 to, the Finance Act 1988⁽⁵⁾ shall not apply for the purposes of section 17 of the 1991 Act and this Order.

SCHEDULE 3

Article 36

DISPOSAL STATEMENTS

TOTALS FOR DISPOSAL PERIOD

1. A disposal statement shall state—
 - (a) the disposal period to which the disposal statement relates and, in particular, the first and last dates of that period;
 - (b) the total number of disposals of relevant land or relevant interests in land which took place or are for the purposes of section 17 of the 1991 Act and this Order to be regarded as having taken place in the disposal period to which the disposal statement relates (in this Schedule referred to as the “relevant disposals”), and also—
 - (i) the number of those disposals which were section 278 disposals; and
 - (ii) the number of those disposals which were not section 278 disposals;
 - (c) the total amount of the consideration for all the relevant disposals;
 - (d) the total number of the gains accruing or for the purposes of section 17 of the 1991 Act and this Order to be regarded as accruing on all the relevant disposals;
 - (e) the total amount of levy payable on the gains accruing on all the relevant disposals;
 - (f) the total amount of interest payable on the levy to be stated under paragraph (e) above, computed to whichever is the earlier of—
 - (i) the date or dates of payment of the levy; and
 - (ii) the date of the disposal statement;
 - (g) the total amount of levy which the chargeable company has, before the date on which the disposal statement is furnished, paid to the appropriate Minister in respect of gains accruing on the relevant disposals, and the total amount of interest payable on that total amount of levy which the company has before that date paid to him;

(2) Section 111A was inserted by the Finance Act 1982 (c. 39), section 83.

(3) 1982 c. 39.

(4) 1985 c. 54.

(5) 1988 c. 39.

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- (h) where in the period between the end of any previous disposal period and the end of the disposal period to which the disposal statement relates an amount of levy has pursuant to article 8(3), 8(5) or 19 to 35 become payable in respect of one or more disposals made or to be regarded as having been made in an earlier disposal period, the total amount of such amounts of levy and interest payable thereon computed as stated in sub-paragraph (f) above; and
- (i) whether any of the disposals of which details have in accordance with paragraph 11 of this Schedule been set out in any earlier disposal statement are, save as required to be stated in the disposal statement by virtue of sub-paragraph (h) above, disposals to which paragraphs 12 and 13 of this Schedule apply.

INDIVIDUAL RELEVANT DISPOSALS

2. The information required by the following paragraphs 3 to 10 of this Schedule shall be given in the disposal statement with respect to each relevant disposal.

3. There shall be given the date of the disposal and the name of the member of the chargeable company's group which made or is to be regarded as having made the disposal.

4. A description shall be given of the relevant land or the relevant interest in land the subject of the disposal, together with a plan showing the location of the relevant land or of the land in which the relevant interest subsists.

5. A summary of the terms of the disposal shall be given, including—

- (a) the name of the person to whom the disposal was made or is to be regarded as having been made;
- (b) the consideration for the disposal (including any part the payment of which is deferred); and
- (c) in the case of a lease, the term for which the lease was granted.

6. In the case of a disposal other than a section 278 disposal there shall be given for the purposes of sub-paragraph (b) of paragraph 5 above a valuation of any part of the consideration which is not a specific amount of money made by an independent valuer; and, in the case of such a disposal, it shall be stated whether the disposal was made by way of a bargain made at arm's length (and, for this purpose, a disposal shall be taken not to have been so made if the person to whom the disposal was made was at the time of the disposal a member of the chargeable company's group or connected with a member of that group, any question whether a person was connected with a company being determinable in accordance with subsections (2) to (8) of section 839 of the 1988 Act).

7. In the case of a disposal which is not a section 278 disposal and which is made otherwise than by way of a bargain made at arm's length—

- (a) it shall be stated whether the consideration stated under paragraph 5 above is the full value received or to be regarded as being received or derived from the disposal; and
- (b) except where the consideration is wholly in money, there shall be annexed to the disposal statement a valuation of the consideration by an independent valuer.

8. In the case of section 278 disposal there shall be stated for the purposes of sub-paragraph (b) of paragraph 5 above the market value at the time of the disposal of the relevant land or of the relevant interest in land the subject of the disposal, together with the assumptions and methods applied and the calculations carried out in determining that value.

9. The amount of the gain accruing on the disposal shall be given, computed in accordance with this Order, together with details of any claim or election made pursuant to this Order and affecting the computation of that amount.

10. There shall be given—

- (a) the amount of the levy chargeable on the gain accruing on the disposal;
- (b) the amount of any interest payable on that amount of levy; and
- (c) a computation showing how each such amount is calculated.

FURTHER INFORMATION

11. There shall be given—

- (a) a list of all small disposals; and
- (b) a list of all disposals being the grant of leases in relation to operational land to which paragraph (1) of article 25 applies,

which took place or are for the purposes of section 17 of the 1991 Act and this Order to be regarded as having taken place in the disposal period to which the disposal statement relates together with, in each case, the information which would be required under paragraphs 3, 4 and 5(a) of Part II of this Schedule were such disposals relevant disposals.

12. If a disposal on which by virtue of paragraph (2) or (4) of article 8 or paragraph (1) of article 25 no gain was regarded as arising is subsequently regarded as giving rise to a gain by virtue of paragraph (3) or (5) of article 8 or paragraph (2) of article 25 the disposal statement shall give the date of the previous disposal statement in which information about that disposal was given in accordance with paragraph 11 of this Schedule.

13. If in the period between the end of any previous disposal period and the end of the disposal period to which the disposal statement relates an amount of levy has pursuant to article 8(3), 8(5) or 19 to 35 become payable in respect of a disposal made or to be regarded as having been made in an earlier disposal period, the disposal statement shall give particulars of how that amount and any interest thereon is computed (including in respect of a disposal on which a gain is regarded as arising by virtue of paragraph (3) of article 8 or paragraph (2) of article 25, the particulars regarding the disposal which would have fallen to be given in the disposal statement for the disposal period in which the disposal took place had the disposal been regarded at the time when that disposal statement was furnished as one on which a gain arose).

14. If an instalment under article 23 is payable on the annual reporting date on or before which the disposal statement is to be furnished, the disposal statement shall give—

- (a) the amount of that instalment; and
- (b) the amount of every instalment previously paid in respect of the disposal to which that instalment relates,

specifying how the instalments have been calculated.

INTERPRETATION

15. In this Schedule “disposal”—

- (a) does not, except in paragraphs 1(i) and 11(a), include a small disposal;
- (b) does not, except in paragraphs 1(i) and 11(b), include a disposal for which paragraph (1) of article 25 provides.

16. In this Schedule references to an independent valuer are references to a person such as is mentioned in article 36(6).