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## SCHEDULES

### SCHEDULE 13

#### TRANSFER SCHEMES: TAX PROVISIONS

#### PART 6

##### TRANSFERS ETC INVOLVING PRIVATE PERSONS

##### *Meaning of “relevant transfer” in Part 6 of Schedule*

- 33 In this Part of this Schedule “relevant transfer” means a transfer, in accordance with a transfer scheme, from or to a person other than a public body.

##### *Transfers of trading stock*

- 34 (1) This paragraph applies if under a relevant transfer trading stock of the transferor is transferred to the transferee.
- (2) Sub-paragraphs (3) and (4) have effect in computing for any corporation tax or income tax purpose both the profits of the trade in relation to which the stock is trading stock immediately before the transfer takes effect (“the transferor's trade”) and—
- (a) if the stock falls immediately after the transfer takes effect to be treated as trading stock of the transferee, the profits of the trade in relation to which it falls to be treated as trading stock (“the transferee's trade”);
  - (b) otherwise, the consideration given by the transferee, or the expenditure incurred by the transferee, for the acquisition of the stock.
- (3) The stock must be taken to have been—
- (a) disposed of by the transferor in the course of the transferor's trade,
  - (b) if sub-paragraph (2)(a) applies, acquired by the transferee in the course of the transferee's trade, and
  - (c) subject to that, disposed of and acquired when the transfer takes effect.
- (4) The value of the stock is to be taken to be—
- (a) if consideration is given to the transferor in respect of the transfer, an amount equal to the value of the consideration, or
  - (b) if no such consideration is given, nil.
- (5) For the purposes of this paragraph consideration given to a person connected with the transferor is to be treated as given to the transferor.
- (6) In this paragraph “trading stock” [F1 has the meaning given by section 174 of ITTOIA 2005 (as respects income tax) or section 163 of CTA 2009 (as respects corporation tax).]

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- (7) For the purposes of this paragraph whether a person is connected with another person is determined in accordance with [<sup>F2</sup>section 1122 of CTA 2010] (as respects corporation tax) or section 993 of ITA 2007 (as respects income tax).

**Textual Amendments**

- F1** Words in Sch. 13 para. 34(6) substituted (with effect in accordance with s. 1329(1) of the commencing Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\)](#), **Sch. 1 para. 739(11)** (with [Sch. 2 Pts. 1, 2](#))
- F2** Words in [Sch. 13 para. 34\(7\)](#) substituted (with effect in accordance with s. 1184(1) of the commencing Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\)](#), **Sch. 1 para. 584(5)** (with [Sch. 2](#))

*Capital allowances: determination of disposal value of plant or machinery*

- 35 (1) This paragraph applies to a relevant transfer of plant or machinery which is a disposal event for the purposes of Part 2 of CAA 2001 (capital allowances for plant and machinery).
- (2) For the purposes of the application of section 61 of that Act (disposal events and disposal value) in relation to the transferor, the disposal value of the plant or machinery is to be treated—
- (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum, or
  - (b) if no such sum is received, as nil.
- (3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.
- (4) Section 88 of CAA 2001 (sales at an undervalue) is to be disregarded.
- (5) This paragraph is subject to sections 63(5) and 68 of CAA 2001.

*Capital allowances: determination of disposal value of fixtures*

- 36 (1) This paragraph applies to a relevant transfer if—
- (a) it is a disposal event for the purposes of Part 2 of CAA 2001, and
  - (b) by virtue of the transfer a person is treated by section 188 of that Act as ceasing to own a fixture.
- (2) For the purposes of the application of section 196 of that Act in relation to the transferor, the disposal value of the fixture is to be treated—
- (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that portion of that sum which falls (or, if the person to whom the disposal is made were entitled to an allowance, would fall) to be treated for the purposes of Part 2 of that Act as expenditure incurred by that person on the provision of the fixture, or
  - (b) if no such sum is received, as nil.
- (3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.
- (4) This paragraph is subject to section 63(5) of CAA 2001.

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*Capital allowances: section 265 of CAA 2001 not to apply in relation to transferee*

- 37 (1) This paragraph applies in relation to a relevant transfer.
- (2) For the purposes of the application of Part 2 of CAA 2001 in relation to the transferee, section 265 of that Act (successions: general) is to be disregarded.

*Capital allowances: determination of capital value of industrial buildings etc.*

- 38 (1) This paragraph applies for the purposes of Part 3 of CAA 2001, and the other provisions of that Act which are relevant to that Part, in relation to a relevant transfer of the relevant interest in an industrial building or structure.
- (2) This paragraph is subject to section 36 of FA 2007 (which makes provision about balancing adjustments etc under Part 3 of CAA 2001).
- (3) The transfer is to be treated as a sale of that relevant interest.
- (4) The net proceeds of that sale are to be treated—
- (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum, or
  - (b) if no such sum is received, as nil.
- (5) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.
- (6) Sections 567 to 570 of CAA 2001 (sales treated as being for alternative amount) are not to have effect in relation to that sale.

*Chargeable gains: disposals not to be treated as made at market value*

- 39 (1) Section 17 of TCGA 1992 (disposals and acquisitions treated as made at market value) is not to have effect in relation to—
- (a) a disposal constituted by a relevant transfer,
  - (b) a disposal to which sub-paragraph (2) applies, or
  - (c) the acquisition made by the person to whom the disposal is made;
- but this sub-paragraph does not apply if the person making the disposal is connected with the person making the acquisition.
- (2) This sub-paragraph applies to a disposal if—
- (a) it is made in accordance with provision contained in a transfer scheme by virtue of paragraph 4, 6 or 12 of Schedule 12 to this Act,
  - (b) the person making the disposal or the person to whom the disposal is made is a person other than a public body, and
  - (c) each of those persons is either the transferor or a transferee under the scheme.
- (3) If sub-paragraph (1) applies to the disposal of an asset, the disposal is to be taken (in relation to the person making the acquisition as well as the person making the disposal) to be—
- (a) in a case where consideration in money or money's worth is given by the person making the acquisition or on his behalf in respect of the vesting of the asset in him, for a consideration equal to the amount or value of that consideration, or
  - (b) in a case where no such consideration is given, for a consideration of nil.

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*Loan relationships*

- 40 (1) [<sup>F3</sup>Section 444 of CTA 2009] (transactions not at arm's length) is not to have effect where, as a result of a relevant transfer, the transferee replaces the transferor as a party to a loan relationship.
- (2) Expressions used in this paragraph and in [<sup>F4</sup>Part 5 of CTA 2009] have the same meanings in this paragraph as in [<sup>F4</sup>that Part].

**Textual Amendments**

- F3** Words in Sch. 13 para. 40(1) substituted (with effect in accordance with s. 1329(1) of the commencing Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 739(12)(a) (with Sch. 2 Pts. 1, 2)
- F4** Words in Sch. 13 para. 40(2) substituted (with effect in accordance with s. 1329(1) of the commencing Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 739(12)(b) (with Sch. 2 Pts. 1, 2)

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