Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART IV

SHARES, SECURITIES, OPTIONS ETC.

CHAPTER I

GENERAL

Share pooling, identification of securities, and indexation

104 Share pooling: general interpretative provisions.

(1) Any number of securities of the same class acquired by the same person in the same capacity shall for the purposes of this Act be regarded as indistinguishable parts of a single asset growing or diminishing on the occasions on which additional securities of the same class are acquired or some of the securities of that class are disposed of.

(2) Subsection (1) above—

(a) does not apply to any securities which were acquired before 6th April 1982 or in the case of a company 1st April 1982; and

(b) has effect subject to sections 105, 106 and 107.

(3) For the purposes of this section and sections 105, 107, 110 and 114—

"a new holding" is a holding of securities which, by virtue of subsection (1) above, is to be regarded as a single asset;

"securities" does not include relevant securities as defined in section 108 but, subject to that, means—

(i) shares or securities of a company; and

(ii) any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired; and

"relevant allowable expenditure" has the meaning assigned to it by section 53(2)(b) and (3);

but shares or securities of a company shall not be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on a recognised stock exchange.

(4) This section and sections 110 and 114—

(a) shall apply separately in relation to any securities held by a person to whom they were issued as an employee of the company or of any other person on terms which restrict his rights to dispose of them, so long as those terms are in force, and

(b) while applying separately to any such securities, shall have effect as if the owner held them in a capacity other than that in which he holds any other securities of the same class.

(5) Nothing in this section or sections 110 and 114 shall be taken as affecting the manner in which the market value of any securities is to be ascertained.

(6) Without prejudice to the generality of subsections (1) and (2) above, a disposal of securities in a new holding, other than a disposal of the whole of it, is a disposal of part of an asset and the provisions of this Act relating to the computation of a gain accruing on a disposal of part of an asset shall apply accordingly.

Modifications etc. (not altering text)

C1 S. 104 applied (with modifications) by S.I. 1989/469, **reg. 27(2)** (as inserted by S.I. 1996/846, **reg. 11(b)**)

105 Disposal on or before day of acquisition of shares and other unidentified assets.

(1) The following provisions shall apply where securities of the same class are acquired or disposed of by the same person on the same day and in the same capacity—

(a) all the securities so acquired shall be treated as acquired by a single transaction and all the securities so disposed of shall be treated as disposed of by a single transaction, and

(b) all the securities so acquired shall, so far as their quantity does not exceed that of the securities so disposed of, be identified with those securities.

(2) Subject to section 106, where the quantity of the securities so disposed of exceeds the quantity of the securities so acquired, then so far as the excess is not required by any provision of section 104 or 107 or Schedule 2 to be identified with securities acquired before the day of the disposal, it shall be treated as diminishing a quantity subsequently acquired, and a quantity so acquired at an earlier date, rather than one so acquired at a later date.

106 Disposal of shares and securities by company within prescribed period of acquisition.

(1) For the purposes of corporation tax on chargeable gains, shares disposed of by a company shall be identified in accordance with the following provisions where—

(a) the number of shares of that class held by the company at any time during the prescribed period before the disposal amounted to not less than 2 per cent. of the number of issued shares of that class; and

(b) shares of that class have been or are acquired by the company within the prescribed period before or after the disposal.

(2) Where a company is a member of a group, shares held or acquired by another member of the group shall be treated for the purposes of paragraphs (a) and (b) of subsection (1) above as held or acquired by that company and for the purposes of paragraph (b) any shares acquired by that company from another company which was a member of the group throughout the prescribed period before and after the disposal shall be disregarded.

(3) References in subsection (1) above to a company's disposing, holding and acquiring shares are references to its doing so in the same capacity; and references in that subsection to the holding or acquisition of shares do not include references to the holding or acquisition of shares as trading stock.

(4) The shares disposed of shall be identified—

(a) with shares acquired as mentioned in subsection (1)(b) above ("available shares") rather than other shares; and

(b) with available shares acquired by the company making the disposal rather than other available shares.

(5) The shares disposed of shall be identified with available shares acquired before the disposal rather than available shares acquired after the disposal and—

(a) in the case of available shares acquired before the disposal, with those acquired later rather than those acquired earlier;

(b) in the case of available shares acquired after the disposal, with those acquired earlier rather than those acquired later.

(6) Where available shares could be identified—

(a) with shares disposed of either by the company that acquired them or by another company; or

(b) with shares disposed of either at an earlier date or at a later date,

they shall in each case be identified with the former rather than the latter; and the identification of any available shares with shares disposed of by a company on any occasion shall preclude their identification with shares comprised in a later disposal by that company or in a disposal by another company.

(7) Where a company disposes of shares which have been identified with shares disposed of by another company, the shares disposed of by the first-mentioned company shall be identified with the shares that would, apart from this section, have been comprised in the disposal by the other company or, if those shares have themselves been identified with shares disposed of by a third company, with the shares that would, apart from this section, have been comprised in the disposal by the third company and so on.

(8) Where shares disposed of by one company are identified with shares acquired by another, the sums allowable to the company making the disposal under section 38 shall be—

(a) the sums allowable under subsection (1)(c) of that section; and

(b) the sums that would have been allowable under subsection (1)(a) and (b) of that section to the company that acquired the shares if they have been disposed of by that company.

(9) This section shall have effect subject to section 105(1).

(10) In this section—

"group" has the meaning given in section 170(2) to (14);

"the prescribed period" means—

(a) in the case of a disposal through a stock exchange or Automated Real-Time Investments Exchange Limited, one month;

(b) in any other case, 6 months.

(11) Shares shall not be treated for the purpose of this section as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.

(12) This section applies to securities as defined in section 132 as it applies to shares.

107 Identification of securities etc: general rules.

(1) Where a person disposes of securities, the securities disposed of shall be identified in accordance with the provisions of this section with securities of the same class acquired by him which could be comprised in that disposal.

(2) This section applies notwithstanding that securities disposed of are otherwise identified by the disposal or by a transfer or delivery giving effect to it (but so that where a person disposes of securities in one capacity, they shall not be identified with securities which he holds or can dispose of only in some other capacity).

(3) Without prejudice to section 105 if, within a period of 10 days, a number of securities are acquired and subsequently a number of securities are disposed of and, apart from this subsection—

(a) the securities acquired would increase the size of, or constitute a new holding, and

(b) the securities disposed of would decrease the size of, or extinguish, the same new holding,

then, subject to subsections (4) and (5) below, the securities disposed of shall be identified with the securities acquired and none of them shall be regarded as forming part of an existing new holding or constituting a new holding.

(4) If, in a case falling within subsection (3) above, the number of securities acquired exceeds the number disposed of—

(a) the excess shall be regarded as forming part of an existing new holding or, as the case may be, as constituting a new holding; and

(b) if the securities acquired were acquired at different times (within the 10 days referred to in subsection (3) above) the securities disposed of shall be identified with securities acquired at an earlier time rather than with securities acquired at a later time.

(5) If, in a case falling within subsection (3) above, the number of securities disposed of exceeds the number acquired, the excess shall not be identified in accordance with that subsection.

(6) Securities which, by virtue of subsection (3) above, do not form part of or constitute a new holding shall be treated for the purposes of section 54(2) as relevant securities within the meaning of section 108.

(7) The identification rules set out in subsections (8) and (9) below have effect subject to section 105 but, subject to that, have priority according to the order in which they are so set out.

(8) Securities disposed of shall be identified with securities forming part of a new holding rather than with other securities.

(9) Securities disposed of shall be identified with securities forming part of a 1982 holding, within the meaning of section 109, rather than with other securities and, subject to that, shall be identified with securities acquired at a later time rather than with securities acquired at an earlier time.

Modifications etc. (not altering text)
C2 S. 107 modified by S.I. 1989/469, **reg. 27A(2A)** (as inserted (6.4.1996) by S.I. 1996/846, **reg. 11(b)**)

108 Identification of relevant securities.

(1) In this section "relevant securities" means—

(a) securities, within the meaning of section 710 of the Taxes Act;

(b) deep discount securities, within the meaning of Schedule 4 to that Act; and

(c) securities which are, or have at any time been, material interests in a non-qualifying offshore fund, within the meaning of Chapter V of Part XVII of that Act;

and shares or securities of a company shall not be treated for the purposes of this section as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on a recognised stock exchange.

(2) Where a person disposes of relevant securities, the securities disposed of shall be identified in accordance with the rules contained in this section with the securities of the same class acquired by him which could be comprised in that disposal, and shall be so identified notwithstanding that they are otherwise identified by the disposal or by a transfer or delivery giving effect to it (but so that where a person disposes of securities in one capacity, they shall not be identified with securities which he holds or can dispose of only in some other capacity).

(3) Relevant securities disposed of on an earlier date shall be identified before securities disposed of on a later date, and the identification of the securities first disposed of shall accordingly determine the securities which could be comprised in the later disposal.

(4) Relevant securities disposed of for transfer or delivery on a particular date or in a particular period—

(a) shall not be identified with securities acquired for transfer or delivery on a later date or in a later period; and

(b) shall be identified with securities acquired for transfer or delivery on or before that date or in or before that period, but on or after the date of the disposal, rather than with securities not so acquired.

(5) The relevant securities disposed of shall be identified—

(a) with securities acquired within the 12 months preceding the disposal rather than with securities not so acquired, and with securities so acquired on an earlier date rather than with securities so acquired on a later date, and

(b) subject to paragraph (a) above, with securities acquired on a later date rather than with securities acquired on an earlier date; and

(c) with securities acquired at different times on any one day in as nearly as may be equal proportions.

(6) The rules contained in the preceding subsections shall have priority according to the order in which they are so contained.

(7) Notwithstanding anything in subsections (3) to (5) above, where, under arrangements designed to postpone the transfer or delivery of relevant securities disposed of, a person by a single bargain acquires securities for transfer or delivery on a particular date or in a particular period and disposes of them for transfer or delivery on a later date or in a later period, then—

(a) the securities disposed of by that bargain shall be identified with the securities thereby acquired; and

(b) securities previously disposed of which, but for the operation of paragraph (a) above in relation to acquisitions for transfer or delivery on the earlier date or in the earlier period, would have been identified with the securities acquired by that bargain—

(i) shall, subject to subsection (3) above, be identified with any available securities acquired for such transfer or delivery (that is to say, any securities so acquired other than securities to which paragraph (a) above applies and other than securities with which securities disposed of for such transfer or delivery would be identified apart from this subsection); and

(ii) in so far as they cannot be so identified shall be treated as disposed of for transfer or delivery on the later date, or in the later period, mentioned above.

(8) This section shall have effect subject to section 106 but shall not apply—

(a) where the disposal is of quoted securities (within the meaning of paragraph 8 of Schedule 2), unless an election has been made with respect to the securities under paragraph 4 of that Schedule or under section 109(4), or

(b) where the disposal is of securities as respects which paragraph 17 or 18 of Schedule 2 has effect.

109 Pre-April 1982 share pools.

(1) This section has effect in relation to any 1982 holding, and in this section "1982 holding" means a holding which, immediately before the coming into force of this section, was a 1982 holding for the purposes of Part II of Schedule 19 to the [M1]Finance Act 1985.

(2) Subject to subsections (3) to (5) below—

(a) the holding shall continue to be regarded as a single asset for the purposes of this Act, but one which cannot grow by the acquisition of additional securities of the same class, and

(b) every sum, which on a disposal of the holding, would be an item of relevant allowable expenditure shall be regarded for the purposes of section 54 as having been incurred at such a time that the month which determines RI in the formula in subsection (1) of that section is March 1982.

Securities of a company shall not be treated for the purposes of this section as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on a recognised stock exchange.

(3) Nothing in subsection (2) above affects the operation of section 127 in relation to the holding, but without prejudice to section 131.

(4) If a person so elects, quoted securities, as defined in paragraph 8 of Schedule 2 which are covered by the election—

(a) shall be treated as an accretion to an existing 1982 holding or, as the case may be, as constituting a new 1982 holding; and

(b) shall be excluded from paragraph 2 of that Schedule;

and the relevant allowable expenditure which is attributable to that 1982 holding shall be adjusted or determined accordingly.

(5) Paragraphs 4(8) to (13) and 5 to 8 of Schedule 2 shall apply in relation to an election under subsection (4) above as they apply in relation to an election under paragraph 4(2) of that Schedule, but with the substitution for any reference to 19th March 1968 of a reference to 31st March 1985 in the case of holdings or disposals by companies and 5th April 1985 in any other case.

(6) For the purpose of computing the indexation allowance (if any) on a disposal of a 1982 holding, the relevant allowable expenditure attributable to the holding on the coming into force of this section shall be the amount which, if the holding had been disposed of immediately before the coming into force of this section, would have been the relevant allowable expenditure in relation to that holding on that disposal, and for the purposes of section 54(4) relevant allowable expenditure attributable to a 1982 holding shall be deemed to be expenditure falling within section 38(1)(a).

Marginal Citations

M1 1985 c. 54.

110 New holdings: indexation allowance.

(1) This section and section 114—

(a) apply in place of section 54 in relation to a disposal of a new holding for the purpose of computing the indexation allowance;

(b) have effect subject to sections 105 and 106.

(2) On any disposal of a new holding, other than a disposal of the whole of it—

(a) the qualifying expenditure and the indexed pool of expenditure shall each be apportioned between the part disposed of and the remainder in the same proportions as, under this Act, the relevant allowable expenditure is apportioned; and

(b) the indexation allowance is the amount by which the portion of the indexed pool which is attributed to the part disposed of exceeds the portion of the qualifying expenditure which is attributed to that part.

(3) On a disposal of the whole of a new holding, the indexation allowance is the amount by which the indexed pool of expenditure at the time of the disposal exceeds the qualifying expenditure at that time.

(4) In relation to a new holding, the qualifying expenditure is at any time the amount which would be the aggregate of the relevant allowable expenditure in relation to a disposal of the whole of the holding occurring at that time.

(5) Subject to subsection (6) below and section 114 the indexed pool of expenditure shall come into being at the time that the holding comes into being or, if it is earlier, when any of the qualifying expenditure is incurred and shall at the time it comes into being be the same as the qualifying expenditure at that time.

(6) In relation to a new holding which was in existence immediately before the coming into force of this section, the indexed pool of expenditure on the coming into force of this section shall be the same as it was for the purposes of Part III of Schedule 19 to the [M2]Finance Act 1985 immediately before then.

[[F1](6A) Where a disposal to a person acquiring or adding to a new holding is treated by virtue of any enactment as one on which neither a gain nor a loss accrues to the person making the disposal—

(a) section 56(2) shall not apply to the disposal (and, accordingly, the amount of the consideration shall not be calculated on the assumption that a gain of an amount equal to the indexation allowance accrues to the person making the disposal), but

(b) an amount equal to the indexation allowance on the disposal shall be added to the indexed pool of expenditure for the holding acquired or, as the case may be, held by the person to whom the disposal is made (and, where it is added to the indexed pool of expenditure for a holding so held, it shall be added after any increase required by subsection (8)(a) below).**]**

(7) Any reference below to an operative event is a reference to any event (whether a disposal or otherwise) which has the effect of reducing or increasing the qualifying expenditure referable to the new holding.

(8) Whenever an operative event occurs—

(a) there shall be added to the indexed pool of expenditure the indexed rise, as calculated under subsection (10) or (11) below, in the value of the pool since the last operative event or, if there has been no previous operative event, since the pool came into being; and

(b) if the operative event results in an increase in the qualifying expenditure then, in addition to any increase under paragraph (a) above, the same increase shall be made to the indexed pool of expenditure; and

(c) if the operative event is a disposal resulting in a reduction in the qualifying expenditure, the indexed pool of expenditure shall be reduced in the same proportion as the qualifying expenditure is reduced; and

(d) if the operative event results in a reduction in the qualifying expenditure but is not a disposal, the same reduction shall be made to the indexed pool of expenditure.

(9) Where the operative event is a disposal—

(a) any addition under subsection (8)(a) above shall be made before the calculation of the indexation allowance under subsection (2) above; and

(b) the reduction under subsection (8)(c) above shall be made after that calculation.

(10) At the time of any operative event, the indexed rise in the indexed pool of expenditure is a sum produced by multiplying the value of the pool immediately before the event by a figure expressed as a decimal and determined, subject to subsection (11) below, by the formula—

$$\frac{RE - RL}{RL}$$

where—

RE is the retail prices index for the month in which the operative event occurs; and

RL is the retail prices index for the month in which occurred the immediately preceding operative event or, if there has been no such event, in which the indexed pool of expenditure came into being.

(11) If RE, as defined in subsection (10) above, is equal to or less than RL, as so defined, the indexed rise is nil.

Textual Amendments

F1 S. 110(6A) inserted (with effect in accordance with s. 93(11) of the amending Act) by Finance Act 1994 (c. 9), **s. 93(6)** (with Sch. 12)

Marginal Citations

M2 1985 c. 54.

[F2]111 Indexation: building society etc. shares.

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Textual Amendments

F2 S. 111 repealed (with effect in accordance with s. 93(11) of the amending Act) by Finance Act 1994 (c. 9), s. 93(7), **Sch. 26 Pt. V(8)** (with Sch. 12)

112 Parallel pooling regulations.

(1) The [M3]Capital Gains Tax (Parallel Pooling) Regulations 1986 made by the Treasury under paragraph 21 of Schedule 19 to the [M4]Finance Act 1985 shall continue to have effect notwithstanding the repeal by this Act of that Schedule, and for the purposes of section 14 of the [M5]Interpretation Act 1978 that paragraph shall be deemed not to have been repealed.

(2) An election under Schedule 6 to the [M6]Finance Act 1983 which has not been revoked before 6th April 1992 shall not have effect in relation to any disposal after 5th April 1992 and may, if the Board allow, be revoked by notice to the inspector.

(3) All such adjustments shall be made, whether by way of discharge or repayment of tax, or the making of assessments or otherwise, as are required in consequence of a revocation under subsection (2) above.

Marginal Citations

M3 S.I.1986/387.
M4 1985 c. 54.
M5 1978 c. 30.
M6 1983 c. 28.

113 Calls on shares.

(1) Subsection (2) below applies where—

(a) on a disposal to which section 53 applies, the relevant allowable expenditure is or includes the amount or value of the consideration given for the issue of shares or securities in, or debentures of, a company; and

(b) the whole or some part of that consideration was given after the expiry of the period of 12 months beginning on the date of the issue of the shares, securities or debentures.

(2) For the purpose of computing the indexation allowance (if any) on the disposal referred to in subsection (1)(a) above—

(a) so much of the consideration as was given after the expiry of the period referred to in subsection (1)(b) above shall be regarded as an item of expenditure separate from any consideration given during that period; and

(b) section 54(4) shall not apply to that separate item of expenditure which, accordingly, shall be regarded as incurred at the time the consideration in question was actually given.

114 Consideration for options.

(1) If, in a case where section 110(8)(b) applies, the increase in the qualifying expenditure is, in whole or in part, attributable to the cost of acquiring an option binding the grantor to sell ("the option consideration"), then, in addition to any increase under section 110(8)(a) or (b), the indexed pool of expenditure shall be increased by an amount equal to the indexed rise in the option consideration, as determined under subsection (2) below.

(2) The indexed rise in the option consideration is a sum produced by multiplying the consideration by a figure expressed as a decimal and determined, subject to subsection (3) below, by the formula—

$$\frac{RO - RA}{RA}$$

where—

RO is the retail prices index for the month in which falls the date on which the option is exercised; and

RA is the retail prices index for the month in which falls the date in which the option was acquired or, if it is later, March 1982.

(3) If RO, as defined in subsection (2) above, is equal to or less than RA, as so defined, the indexed rise is nil.

Gilt-edged securities and qualifying corporate bonds

115 Exemptions for gilt-edged securities and qualifying corporate bonds etc.

(1) A gain which accrues on the disposal by any person of—

(a) gilt-edged securities or qualifying corporate bonds, or

(b) any option or contract to acquire or dispose of gilt-edged securities or qualifying corporate bonds,

shall not be a chargeable gain.

(2) In subsection (1) above the reference to the disposal of a contract to acquire or dispose of gilt-edged securities or qualifying corporate bonds is a reference to the disposal of the outstanding obligations under such a contract.

(3) Without prejudice to section 143(5), where a person who has entered into any such contract as is referred to in subsection (1)(b) above closes out that contract by entering into another contract with obligations which are reciprocal to those of the first-mentioned contract, that transaction shall for the purposes of this section constitute the disposal of an asset, namely, his outstanding obligations under the first-mentioned contract.

116 Reorganisations, conversions and reconstructions.

(1) This section shall have effect in any case where a transaction occurs of such a description that, apart from the provisions of this section—

(a) sections 127 to 130 would apply by virtue of any provision of Chapter II of this Part; and

(b) either the original shares would consist of or include a qualifying corporate bond and the new holding would not, or the original shares would not and the new holding would consist of or include such a bond;

and in paragraph (b) above "the original shares" and "the new holding" have the same meaning as they have for the purposes of sections 127 to 130.

(2) In this section "relevant transaction" means a reorganisation, conversion of securities or other transaction such as is mentioned in subsection (1) above, and, in addition to its application where the transaction takes place after the coming into force of this section, subsection (10) below applies where the relevant transaction took place before the coming into force of this section so far as may be necessary to enable any gain or loss deferred under paragraph 10 of Schedule 13 to the [M7]Finance Act 1984 to be taken into account on a subsequent disposal.

(3) Where the qualifying corporate bond referred to in subsection (1)(b) above would constitute the original shares for the purposes of sections 127 to 130, it is in this section referred to as "the old asset" and the shares or securities which would constitute the new holding for those purposes are referred to as "the new asset".

(4) Where the qualifying corporate bond referred to in subsection (1)(b) above would constitute the new holding for the purposes of sections 127 to 130, it is in this section referred to as "the new asset" and the shares or securities which would constitute the original shares for those purposes are referred to as "the old asset".

(5) So far as the relevant transaction relates to the old asset and the new asset, sections 127 to 130 shall not apply in relation to it.

(6) In accordance with subsection (5) above, the new asset shall not be treated as having been acquired on any date other than the date of the relevant transaction or, subject to subsections (7) and (8) below, for any consideration other than the market value of the old asset as determined immediately before that transaction.

(7) If, on the relevant transaction, the person concerned receives, or becomes entitled to receive, any sum of money which, in addition to the new asset, is by way of consideration for the old asset, that sum shall be deducted from the consideration referred to in subsection (6) above.

(8) If, on the relevant transaction, the person concerned gives any sum of money which, in addition to the old asset, is by way of consideration for the new asset, that sum shall be added to the consideration referred to in subsection (6) above.

(9) In any case where the old asset consists of a qualifying corporate bond, then, so far as it relates to the old asset and the new asset, the relevant transaction shall be treated for the purposes of this Act as a disposal of the old asset and an acquisition of the new asset.

(10) Except in a case falling within subsection (9) above, so far as it relates to the old asset and the new asset, the relevant transaction shall be treated for the purposes of this Act as not involving any disposal of the old asset but—

(a) there shall be calculated the chargeable gain or allowable loss that would have accrued if, at the time of the relevant transaction, the old asset had been disposed of for a consideration equal to its market value immediately before that transaction; and

(b) subject to subsections (12) to (14) below, the whole or a corresponding part of the chargeable gain or allowable loss mentioned in paragraph (a) above shall be deemed to accrue on a subsequent disposal of the whole or part of the new asset (in addition to any gain or loss that actually accrues on that disposal); and

(c) on that subsequent disposal, section 115 shall have effect only in relation to any gain or loss that actually accrues and not in relation to any gain or loss which is deemed to accrue by virtue of paragraph (b) above.

(11) Subsection (10)(b) and (c) above shall not apply to any disposal falling within section 58(1), 62(4), 139, **[**[F3]140A,**]** 171(1) or 172, but a person who has acquired the new asset on a disposal falling within any of those sections (and without there having been a previous disposal not falling within any of those sections or a devolution on death) shall be treated for the purposes of subsection (10)(b) and (c) above as if the new asset had been acquired by him at the same time and for the same consideration

as, having regard to subsections (5) to (8) above, it was acquired by the person making the disposal.

(12) In any case where—

(a) on the calculation under subsection (10)(a) above, a chargeable gain would have accrued, and

(b) the consideration for the old asset includes such a sum of money as is referred to in subsection (7) above,

then, subject to subsection (13) below, the proportion of that chargeable gain which that sum of money bears to the market value of the old asset immediately before the relevant transaction shall be deemed to accrue at the time of that transaction.

(13) If the inspector is satisfied that the sum of money referred to in subsection (12)(b) above is small, as compared with the market value of the old asset immediately before the relevant transaction, and so directs, subsection (12) above shall not apply.

(14) In a case where subsection (12) above applies, the chargeable gain which, apart from that subsection, would by virtue of subsection (10)(b) above be deemed to accrue on a subsequent disposal of the whole or part of the new asset shall be reduced or, as the case may be, extinguished by deducting therefrom the amount of the chargeable gain which, by virtue of subsection (12) above, is deemed to accrue at the time of the relevant transaction.

(15) In any case where—

(a) the new asset mentioned in subsections (10) and (11) above is a qualifying corporate bond in respect of which an allowable loss is treated as accruing under section 254(2), and

(b) the loss is treated as accruing at a time falling after the relevant transaction but before any actual disposal of the new asset subsequent to the relevant transaction,

then for the purposes of subsections (10) and (11) above a subsequent disposal of the new asset shall be treated as occurring at (and only at) the time the loss is treated as accruing.

Textual Amendments

F3 Words in s. 116(11) inserted (*retrosp.*) by 1992 c. 48, **s. 46(1)(3)**

Marginal Citations

M7 1984 c. 43.

117 Meaning of "qualifying corporate bond".

(1) For the purposes of this section, a "corporate bond" is a security, as defined in section 132(3)(b)—

(a) the debt on which represents and has at all times represented a normal commercial loan; and

(b) which is expressed in sterling and in respect of which no provision is made for conversion into, or redemption in, a currency other than sterling,

and in paragraph (a) above "normal commercial loan" has the meaning which would be given by sub-paragraph (5) of paragraph 1 of Schedule 18 to the Taxes Act if

for paragraph (a)(i) to (iii) of that sub-paragraph there were substituted the words " corporate bonds (within the meaning of section 117 of the 1992 Act) ".

(2) For the purposes of subsection (1)(b) above—

(a) a security shall not be regarded as expressed in sterling if the amount of sterling falls to be determined by reference to the value at any time of any other currency or asset; and

(b) a provision for redemption in a currency other than sterling but at the rate of exchange prevailing at redemption shall be disregarded.

(3) For the purposes of this section "corporate bond" also includes a security which is not included in the definition in subsection (1) above, and which—

(a) is a deep gain security for the purposes of Schedule 11 to the [M8]Finance Act 1989 ("the 1989 Act"), or

(b) by virtue of paragraph 21(2) of Schedule 11 to the 1989 Act falls to be treated as a deep gain security as there mentioned, or

(c) by virtue of paragraph 22(2) of that Schedule, falls to be treated as a deep gain security as there mentioned, or

(d) by virtue of paragraph 22A(2) or 22B(3) of that Schedule, falls to be treated as a deep gain security as mentioned in the paragraph concerned.

(4) For the purposes of this section "corporate bond" also includes a share in a building society—

(a) which is a qualifying share,

(b) which is expressed in sterling, and

(c) in respect of which no provision is made for conversion into, or redemption in, a currency other than sterling.

(5) For the purposes of subsection (4) above, a share in a building society is a qualifying share if—

(a) it is a permanent interest bearing share, or

(b) it is of a description specified in regulations made by the Treasury for the purposes of this paragraph.

(6) Subsection (2) above applies for the purposes of subsection (4) above as it applies for the purposes of subsection (1)(b) above, treating the reference to a security as a reference to a share.

[[F4](6A) For the purposes of this section "corporate bond" also includes, except in relation to a person who acquires it on or after a disposal in relation to which section 115 has or has had effect in accordance with section 116(10)(c), any debenture issued on or after 16th March 1993 which is not a security (as defined in section 132) but—

(a) is issued in circumstances such that it would fall by virtue of section 251(6) to be treated for the purposes of section 251 as such a security; and

(b) would be a corporate bond if it were a security as so defined.**]**

(7) Subject to subsections (9) and (10) below, for the purposes of this Act, a corporate bond—

(a) is a "qualifying" corporate bond if it is issued after 13th March 1984; and

(b) becomes a "qualifying" corporate bond if, having been issued on or before that date, it is acquired by any person after that date and that acquisition is not as a result of a disposal which is excluded for the purposes of this subsection,

or which was excluded for the purposes of section 64(4) of the [M9]Finance Act 1984.

(8) Where a person disposes of a corporate bond which was issued on or before 13th March 1984 and, before the disposal, the bond had not become a qualifying corporate bond, the disposal is excluded for the purposes of subsection (7) above if, by virtue of any enactment—

(a) the disposal is treated for the purposes of this Act as one on which neither a gain nor a loss accrues to the person making the disposal; or

(b) the consideration for the disposal is treated for the purposes of this Act as reduced by an amount equal to the held-over gain on that disposal, as defined for the purposes of section 165 or 260.

(9) Subject to subsection (10) below, for the purposes of this Act—

(a) a corporate bond which falls within subsection (3)(a) above is a qualifying corporate bond, whatever the date of its issue;

(b) a corporate bond which falls within subsection (3)(b) above is a qualifying corporate bond as regards a disposal made after the time mentioned in paragraph 21(1)(c) of Schedule 11 to the 1989 Act, whatever the date of its issue;

(c) a corporate bond which falls within subsection (3)(c) above is a qualifying corporate bond as regards a disposal made after the time the agreement mentioned in paragraph 22(1)(b) of that Schedule is made, whatever the date of its issue;

(d) a corporate bond which falls within subsection (3)(d) above is a qualifying corporate bond as regards a disposal made after the time mentioned in paragraph 22A(1)(c) or 22B(2)(b) of that Schedule (as the case may be);

and subsections (7) and (8) above shall not apply in the case of any such bond.

(10) A security which is issued by a member of a group of companies to another member of the same group is not a qualifying corporate bond for the purposes of this Act except in relation to a disposal by a person who (at the time of the disposal) is not a member of the same group as the company which issued the security; and references in this subsection to a group of companies or to a member of a group shall be construed in accordance with section 170(2) to (14).

(11) For the purposes of this section—

(a) where a security is comprised in a letter of allotment or similar instrument and the right to the security thereby conferred remains provisional until accepted, the security shall not be treated as issued until there has been acceptance; and

(b) "permanent interest bearing share" has the same meaning as in the [M10]Building Societies (Designated Capital Resources) (Permanent Interest Bearing Shares) Order 1991.

(12) The Treasury may by regulations provide that for the definition of the expression "permanent interest bearing share" in subsection (11) above (as it has effect for the time being) there shall be substituted a different definition of that expression, and regulations under this subsection or subsection (5)(b) above may contain such supplementary, incidental, consequential or transitional provision as the Treasury thinks fit.

(13) This section shall have effect for the purposes of section 254 with the omission of subsections (4) to (6), (11) and (12).

Textual Amendments

F4 S. 117(6A) inserted (27.7.1993 with effect as mentioned in s. 84(3)) by 1993 c. 34, **s. 84(1)(3)**

Modifications etc. (not altering text)

C3 S. 117 applied by 1993 c. 34, **s. 153(11A)** (as inserted (retrospective to 27.7.1993) by Finance Act 1995 (c. 4), Sch. 24 paras. 1, **4(4)**)
S. 117 modified by 1993 c. 34, **Sch. 17 para. 5** (as substituted (retrospective to 27.7.1993) by Finance Act 1995 (c. 4), Sch. 24 paras. 1, **6**)

Marginal Citations

M8 1989 c. 26.
M9 1984 c. 43.
M10 S.I.1991/702.

Deep discount securities, the accrued income scheme etc.

118 Amount to be treated as consideration on disposal of deep discount securities etc.

(1) Subject to subsections (2) and (3) below, in the computation of the gain accruing on the disposal by any person of any deep discount securities (within the meaning of Schedule 4 to the Taxes Act)—

(a) section 37 shall not apply but the consideration for the disposal shall be treated as reduced by the amount mentioned in paragraph 4(1)(a) of that Schedule (including any amount mentioned in paragraph 3 of that Schedule); and

(b) where that amount exceeds the consideration for the disposal, the amount of the excess shall be treated as expenditure within section 38(1)(b) incurred by that person on the security immediately before the disposal.

(2) Subsection (3) below applies where—

(a) there is a conversion of securities to which section 132 applies and those securities include deep discount securities; or

(b) securities including deep discount securities are exchanged (or by virtue of section 136(1) are treated as exchanged) for other securities in circumstances in which section 135(3) applies.

(3) Where this subsection applies—

(a) subsection (1) and section 37 shall not apply but any sum payable to the beneficial owner of the deep discount securities by way of consideration for their disposal (in addition to his new holding) shall be treated for the purpose of the computation of the gain as reduced by the amount of the accrued income on which he is chargeable to tax by virtue of paragraph 7(3) of Schedule 4 to the Taxes Act or, in a case where paragraph 3 of that Schedule applies, on which he would be so chargeable if that paragraph did not apply; and

(b) where that amount exceeds any such sum, the excess shall be treated as expenditure within section 38(1)(b) incurred by him on the security immediately before the time of the conversion or exchange.

(4) Where a disposal of a deep discount security is to be treated for the purposes of this Act as one on which neither a gain nor a loss accrues to the person making the disposal, the consideration for which the person acquiring the security would, apart from this

subsection, be treated for those purposes as having acquired the security shall be increased by the amount mentioned in paragraph 4(1)(a) of Schedule 4 to the Taxes Act (including any amount mentioned in paragraph 3 of that Schedule).

(5) Where by virtue of paragraph 18(3) of Schedule 4 to the Taxes Act trustees are deemed for the purposes of that Schedule to dispose of a security at a particular time—

(a) they shall be deemed to dispose of the security at that time for the purposes of this Act, and

(b) the disposal deemed by paragraph (a) above shall be deemed to be at the market value of the security.

(6) Where by virtue of paragraph 18(4) of Schedule 4 to the Taxes Act trustees are deemed for the purposes of that Schedule to acquire a security at a particular time—

(a) they shall be deemed to acquire the security at that time for the purposes of this Act, and

(b) the acquisition deemed by paragraph (a) above shall be deemed to be at the market value of the security.

119 Transfers of securities subject to the accrued income scheme.

(1) Where there is a transfer of securities within the meaning of section 710 of the Taxes Act (accrued income scheme)—

(a) if section 713(2)(a) or (3)(a) of that Act applies, section 37 shall be disregarded in computing the gain accruing on the disposal concerned;

(b) if section 713(2)(b) or (3)(b) of that Act applies, section 39 shall be disregarded in computing the gain accruing to the transferee if he disposes of the securities;

but subsections (2) and (3) below shall apply.

(2) Where the securities are transferred with accrued interest (within the meaning of section 711 of the Taxes Act)—

(a) if section 713(2)(a) of that Act applies, an amount equal to the accrued amount (determined under that section) shall be excluded from the consideration mentioned in subsection (8) below;

(b) if section 713(2)(b) of that Act applies, an amount equal to that amount shall be excluded from the sums mentioned in subsection (9) below.

(3) Where the securities are transferred without accrued interest (within the meaning of section 711 of the Taxes Act)—

(a) if section 713(3)(a) of that Act applies, an amount equal to the rebate amount (determined under that section) shall be added to the consideration mentioned in subsection (8) below;

(b) if section 713(3)(b) of that Act applies, an amount equal to that amount shall be added to the sums mentioned in subsection (9) below.

(4) Where section 716 of the Taxes Act applies—

(a) if subsection (2) or (3) of that section applies, section 37 shall be disregarded in computing the gain accruing on the disposal concerned, but the relevant amount shall be excluded from the consideration mentioned in subsection (8) below; and

(b) if subsection (4) of that section applies, section 39 shall be disregarded in computing the gain accruing on the disposal concerned, but the relevant amount shall be excluded from the sums mentioned in subsection (9) below.

(5) In subsection (4) above "the relevant amount" means an amount equal to—

(a) if paragraph (b) below does not apply, the amount of the unrealised interest in question (within the meaning of section 716 of the Taxes Act);

(b) if section 719 of the Taxes Act applies—

(i) in a case falling within subsection (4)(a) above, amount A (within the meaning of section 719);

(ii) in a case falling within subsection (4)(b) above, amount C (within the meaning of section 719).

(6) In relation to any securities which by virtue of subsection (7) below are treated for the purposes of this subsection as having been transferred, subsections (2) and (3) above shall have effect as if for "applies" (in each place where it occurs) there were substituted " would apply if the disposal were a transfer ".

(7) Where there is a disposal of securities for the purposes of this Act which is not a transfer for the purposes of section 710 of the Taxes Act but, if it were such a transfer, one or more of the following paragraphs would apply, namely, paragraphs (a) and (b) of section 713(2) and paragraphs (a) and (b) of section 713(3) of that Act, the securities shall be treated—

(a) for the purposes of subsection (6) above, as transferred on the day of the disposal, and

(b) for the purposes of subsections (2) and (3) above, as transferred with accrued interest if, had the disposal been a transfer for the purposes of section 710, it would have been a transfer with accrued interest and as transferred without accrued interest if, had the disposal been such a transfer, it would have been a transfer without accrued interest.

(8) The consideration is the consideration for the disposal of the securities transferred which is taken into account in the computation of the gain accruing on the disposal.

(9) The sums are the sums allowable to the transferee as a deduction from the consideration in the computation of the gain accruing to him if he disposes of the securities.

(10) Where on a conversion or exchange of securities a person is treated as entitled to a sum under subsection (2)(a) of section 713 of the Taxes Act an amount equal to the accrued amount (determined under that section) shall, for the purposes of this Act, be treated as follows—

(a) to the extent that it does not exceed the amount of any consideration which the person receives (or is deemed to receive) or becomes entitled to receive on the conversion or exchange (other than his new holding), it shall be treated as reducing that consideration; and

(b) to the extent that it does exceed that amount, it shall be treated as consideration which the person gives on the conversion or exchange;

and where on a conversion or exchange of securities a person is treated as entitled to relief under subsection (3)(a) of that section an amount equal to the rebate amount (determined under that section) shall, for the purposes of the computation of the gain, be treated as consideration which the person receives on the conversion or exchange.

(11) In subsection (10) above "conversion" means conversion within the meaning of section 132 and "exchange" means an exchange which by virtue of Chapter II of this Part does not involve a disposal.

120 Increase in expenditure by reference to tax charged in relation to shares etc.

(1) Where an amount is chargeable to tax under Chapter II of Part III of the [M11]Finance Act 1988 on a person who acquires shares or an interest in shares, then on the first disposal of the shares (whether by him or by another person) after his acquisition, section 38(1)(a) shall apply as if a sum equal to the amount chargeable had formed part of the consideration given by the person making the disposal for his acquisition of the shares; and this subsection shall apply with the appropriate modifications in a case to which section 83 of that Act applies.

This subsection shall be construed as if it were contained in Chapter II of Part III of the [M12]Finance Act 1988.

(2) Section 38(1)(a) applies as if the relevant amount as defined in the following provisions of this section in the cases there specified had formed part of the consideration given by the person making the disposal for his acquisition of the assets in question.

(3) Where an amount is chargeable to tax by virtue of section 162(5) of the Taxes Act in respect of shares or an interest in shares, then—

(a) on a disposal of the shares or interest, where that is the event giving rise to the charge; or

(b) in any case, on the first disposal of the shares or interest after the event,

the relevant amount is a sum equal to the amount so chargeable.

(4) If a gain chargeable to tax under section 135(1) or (6) of the Taxes Act is realised by the exercise of a right to acquire shares, the relevant amount is a sum equal to the amount of the gain so chargeable to tax.

(5) Where an amount is chargeable to tax under section 138 of the Taxes Act on a person acquiring any shares or interest in shares, then on the first disposal (whether by him or another person) of the shares after his acquisition, the relevant amount is an amount equal to the amount so chargeable.

(6) Where an amount was chargeable to tax under **[**[F5]the applicable provision**]** of the Taxes Act in respect of shares acquired in exercise of any such right as is mentioned in section 185(1) of that Act, the relevant sum in relation to those shares is an amount equal to the amount so chargeable **[**[F6]; and in this subsection "the applicable provision" means—

(a) subsection (6) of section 185 of the Taxes Act (as that subsection had effect before the coming into force of section 39(5) of the [M13]Finance Act 1991), or

(b) subsection (6A) of that section.**]**

(7) Subsections (3), (4), (5) and (6) above shall be construed as one with sections 162, 135, 138 and 185 of the Taxes Act respectively.

Textual Amendments

F5 Words in s. 185(6) substituted (*retrospectively*) by 1993 c. 34, **s. 105(1)(2)**

F6 Words in s. 185(6) inserted (*retrospectively*) by 1993 c. 34, **s. 105(1)(2)**

Marginal Citations

M11 1988 c. 39.
M12 1988 c. 39.
M13 1991 c. 31.

Savings certificates etc.

121 Exemption for government non-marketable securities.

(1) Savings certificates and non-marketable securities issued under the [M14]National Loans Act 1968 or the [M15]National Loans Act 1939, or any corresponding enactment forming part of the law of Northern Ireland, shall not be chargeable assets, and accordingly no chargeable gain shall accrue on their disposal.

(2) In this section—

(a) "savings certificates" means savings certificates issued under section 12 of the [M16]National Loans Act 1968, or section 7 of the [M17]National Debt Act 1958, or section 59 of the [M18]Finance Act 1920, and any war savings certificates as defined in section 9(3) of the [M19]National Debt Act 1972, together with any savings certificates issued under any enactment forming part of the law of Northern Ireland and corresponding to the said enactments, and

(b) "non-marketable securities" means securities which are not transferable, or which are transferable only with the consent of some Minister of the Crown, or the consent of a department of the Government of Northern Ireland, or only with the consent of the National Debt Commissioners.

Marginal Citations

M14 1968 c. 13.
M15 1939 c. 117.
M16 1968 c. 13.
M17 1958 (7 Eliz. 2) c.6.
M18 1920 c.18.
M19 1972 c. 65.

Capital distribution in respect of shares etc.

122 Distribution which is not a new holding within Chapter II.

(1) Where a person receives or becomes entitled to receive in respect of shares in a company any capital distribution from the company (other than a new holding as defined in section 126) he shall be treated as if he had in consideration of that capital distribution disposed of an interest in the shares.

(2) If the inspector is satisfied that the amount distributed is small, as compared with the value of the shares in respect of which it is distributed, and so directs—

(a) the occasion of the capital distribution shall not be treated for the purposes of this Act as a disposal of the asset, and

(b) the amount distributed shall be deducted from any expenditure allowable under this Act as a deduction in computing a gain or loss on the disposal of the shares by the person receiving or becoming entitled to receive the distribution of capital.

(3) A person who is dissatisfied with the refusal of the inspector to give a direction under this section may appeal to the Commissioners having jurisdiction on an appeal against an assessment to tax in respect of a gain accruing on the disposal.

(4) Where the allowable expenditure is less than the amount distributed (or is nil)—

(a) subsections (2) and (3) above shall not apply, and

(b) if the recipient so elects (and there is any allowable expenditure)—

(i) the amount distributed shall be reduced by the amount of the allowable expenditure, and

(ii) none of that expenditure shall be allowable as a deduction in computing a gain accruing on the occasion of the capital distribution, or on any subsequent occasion.

In this subsection "allowable expenditure" means the expenditure which immediately before the occasion of the capital distribution was attributable to the shares under paragraphs (a) and (b) of section 38(1).

(5) In this section—

(a) the "amount distributed" means the amount or value of the capital distribution,

(b) "capital distribution" means any distribution from a company, including a distribution in the course of dissolving or winding up the company, in money or money's worth except a distribution which in the hands of the recipient constitutes income for the purposes of income tax.

Modifications etc. (not altering text)

C4 S. 122 modified (27.7.1992) by 1993 c. 37, s. 12, **Sch. 2 Pt. I para. 16(2)(b)**

123 Disposal of right to acquire shares or debentures.

(1) Where a person receives or becomes entitled to receive in respect of any shares in a company a provisional allotment of shares in or debentures of the company and he disposes of his rights, section 122 shall apply as if the amount of the consideration for the disposal were a capital distribution received by him from the company in respect of the first-mentioned shares, and as if that person had, instead of disposing of the rights, disposed of an interest in those shares.

(2) This section shall apply in relation to rights obtained in respect of debentures of a company as it applies in relation to rights obtained in respect of shares in a company.

Close companies

124 Disposal of shares: relief in respect of income tax consequent on shortfall in distributions.

(1) If in pursuance of section 426 of the Taxes Act (consequences for income tax of apportionment of income etc. of close company) a person is assessed to income tax,

then, in the computation of the gain accruing on a disposal by him of any shares forming part of his interest in the company to which the relevant apportionment relates, the amount of the income tax paid by him, so far as attributable to those shares, shall be allowable as a deduction.

(2) Subsection (1) above shall not apply in relation to tax charged in respect of undistributed income which has, before the disposal, been subsequently distributed and is then exempt from tax by virtue of section 427(4) of the Taxes Act or in relation to tax treated as having been paid by virtue of section 426(2)(b) of that Act.

(3) For the purposes of this section the income assessed to tax shall be the highest part of the individual's income for the year of assessment in question, but so that if the highest part of the said income is taken into account under this section in relation to an assessment to tax the next highest part shall be taken into account in relation to any other relevant assessment, and so on.

(4) For the purpose of identifying shares forming part of an interest in a company with shares subsequently disposed of which are of the same class, shares bought at an earlier time shall be deemed to have been disposed of before shares bought at a later time.

125 Shares in close company transferring assets at an undervalue.

(1) If a company which is a close company transfers, or has after 31st March 1982 transferred, an asset to any person otherwise than by way of a bargain made at arm's length and for a consideration of an amount or value less than the market value of the asset, an amount equal to the difference shall be apportioned among the issued shares of the company, and the holders of those shares shall be treated in accordance with the following provisions of this section.

(2) For the purposes of the computation of the gain accruing on the disposal of any of those shares by the person owning them on the date of transfer, an amount equal to the amount so apportioned to that share shall be excluded from the expenditure allowable as a deduction under section 38(1)(a) from the consideration for the disposal.

(3) If the person owning any of the shares at the date of transfer is itself a close company an amount equal to the amount apportioned to the shares so owned under subsection (1) above to that close company shall be apportioned among the issued shares of that close company, and the holders of those shares shall be treated in accordance with subsection (2) above, and so on through any number of close companies.

(4) This section shall not apply where the transfer of the asset is a disposal to which section 171(1) applies.

(5) In relation to a disposal to which section 35(2) does not apply, subsection (1) above shall have effect with the substitution of " 6th April 1965 " for "31st March 1982".

CHAPTER II

REORGANISATION OF SHARE CAPITAL, CONVERSION OF SECURITIES ETC.

Reorganisation or reduction of share capital

126 Application of sections 127 to 131.

(1) For the purposes of this section and sections 127 to 131 "reorganisation" means a reorganisation or reduction of a company's share capital, and in relation to the reorganisation—

(a) "original shares" means shares held before and concerned in the reorganisation,

(b) "new holding" means, in relation to any original shares, the shares in and debentures of the company which as a result of the reorganisation represent the original shares (including such, if any, of the original shares as remain).

(2) The reference in subsection (1) above to the reorganisation of a company's share capital includes—

(a) any case where persons are, whether for payment or not, allotted shares in or debentures of the company in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of shares in the company or of any class of shares in the company, and

(b) any case where there are more than one class of share and the rights attached to shares of any class are altered.

(3) The reference in subsection (1) above to a reduction of share capital does not include the paying off of redeemable share capital, and where shares in a company are redeemed by the company otherwise than by the issue of shares or debentures (with or without other consideration) and otherwise than in a liquidation, the shareholder shall be treated as disposing of the shares at the time of the redemption.

127 Equation of original shares and new holding.

Subject to sections 128 to 130, a reorganisation shall not be treated as involving any disposal of the original shares or any acquisition of the new holding or any part of it, but the original shares (taken as a single asset) and the new holding (taken as a single asset) shall be treated as the same asset acquired as the original shares were acquired.

128 Consideration given or received by holder.

(1) Subject to subsection (2) below, where, on a reorganisation, a person gives or becomes liable to give any consideration for his new holding or any part of it, that consideration shall in relation to any disposal of the new holding or any part of it be treated as having been given for the original shares, and if the new holding or part of it is disposed of with a liability attaching to it in respect of that consideration, the consideration given for the disposal shall be adjusted accordingly.

(2) There shall not be treated as consideration given for the new holding or any part of it—

(a) any surrender, cancellation or other alteration of the original shares or of the rights attached thereto, or

(b) any consideration consisting of any application, in paying up the new holding or any part of it, of assets of the company or of any dividend or other distribution declared out of those assets but not made,

and, in the case of a reorganisation on or after 10th March 1981, any consideration given for the new holding or any part of it otherwise than by way of a bargain made at arm's length shall be disregarded to the extent that its amount or value exceeds the relevant increase in value; and for this purpose "the relevant increase in value" means the amount by which the market value of the new holding immediately after the reorganisation exceeds the market value of the original shares immediately before the reorganisation.

(3) Where on a reorganisation a person receives (or is deemed to receive), or becomes entitled to receive, any consideration, other than the new holding, for the disposal of an interest in the original shares, and in particular—

(a) where under section 122 he is to be treated as if he had in consideration of a capital distribution disposed of an interest in the original shares, or

(b) where he receives (or is deemed to receive) consideration from other shareholders in respect of a surrender of rights derived from the original shares,

he shall be treated as if the new holding resulted from his having for that consideration disposed of an interest in the original shares (but without prejudice to the original shares and the new holding being treated in accordance with section 127 as the same asset).

(4) Where for the purpose of subsection (3) above it is necessary in computing the gain or loss accruing on the disposal of the interest in the original shares mentioned in that subsection to apportion the cost of acquisition of the original shares between what is disposed of and what is retained, the apportionment shall be made in the like manner as under section 129.

129 Part disposal of new holding.

Subject to section 130(2), where for the purpose of computing the gain or loss accruing to a person from the acquisition and disposal of any part of the new holding it is necessary to apportion the cost of acquisition of any of the original shares between what is disposed of and what is retained, the apportionment shall be made by reference to market value at the date of the disposal (with such adjustment of the market value of any part of the new holding as may be required to offset any liability attaching thereto but forming part of the cost to be apportioned).

130 Composite new holdings.

(1) This section shall apply to a new holding—

(a) if it consists of more than one class of shares in or debentures of the company and one or more of those classes is of shares or debentures which, at any time not later than the end of the period of 3 months beginning with the date on which the reorganisation took effect, or of such longer period as the Board may by notice allow, had quoted market values on a recognised stock exchange in the United Kingdom or elsewhere, or

(b) if it consists of more than one class of rights of unit holders and one or more of those classes is of rights the prices of which were published daily by the

managers of the scheme at any time not later than the end of that period of 3 months (or longer if so allowed).

(2) Where for the purpose of computing the gain or loss accruing to a person from the acquisition and disposal of the whole or any part of any class of shares or debentures or rights of unit holders forming part of a new holding to which this section applies it is necessary to apportion costs of acquisition between what is disposed of and what is retained, the cost of acquisition of the new holding shall first be apportioned between the entire classes of shares or debentures or rights of which it consists by reference to market value on the first day (whether that day fell before the reorganisation took effect or later) on which market values or prices were quoted or published for the shares, debentures or rights as mentioned in subsection (1)(a) or (1)(b) above (with such adjustment of the market value of any class as may be required to offset any liability attaching thereto but forming part of the cost to be apportioned).

(3) For the purposes of this section the day on which a reorganisation involving the allotment of shares or debentures or unit holders' rights takes effect is the day following the day on which the right to renounce any allotment expires.

131 Indexation allowance.

(1) This section applies where—

(a) by virtue of section 127, on a reorganisation the original shares (taken as a single asset) and the new holding (taken as a single asset) fall to be treated as the same asset acquired as the original shares were acquired; and

(b) on the reorganisation, a person gives or becomes liable to give any consideration for his new holding or any part of it.

(2) Where this section applies, so much of the consideration referred to in subsection (1)(b) above as, on a disposal to which section 53 applies of the new holding, will, by virtue of section 128(1), be treated as having been given for the original shares, shall be treated for the purposes of section 54 as an item of relevant allowable expenditure incurred not at the time the original shares were acquired but at the time the person concerned gave or became liable to give the consideration (and, accordingly, section 54(4) shall not apply in relation to that item of expenditure).

Conversion of securities

132 Equation of converted securities and new holding.

(1) Sections 127 to 131 shall apply with any necessary adaptations in relation to the conversion of securities as they apply in relation to a reorganisation (that is to say, a reorganisation or reduction of a company's share capital).

(2) This section has effect subject to sections 133 and 134.

(3) For the purposes of this section and section 133—

(a) "conversion of securities" includes—

(i) a conversion of securities of a company into shares in the company, and

(ii) a conversion at the option of the holder of the securities converted as an alternative to the redemption of those securities for cash, and

(iii) any exchange of securities effected in pursuance of any enactment (including an enactment passed after this Act) which provides for the compulsory acquisition of any shares or securities and the issue of securities or other securities instead,

(b) "security" includes any loan stock or similar security whether of the Government of the United Kingdom or of any other government, or of any public or local authority in the United Kingdom or elsewhere, or of any company, and whether secured or unsecured.

133 Premiums on conversion of securities.

(1) This section applies where, on a conversion of securities, a person receives, or becomes entitled to receive, any sum of money ("the premium") which is by way of consideration (in addition to his new holding) for the disposal of the converted securities.

(2) If the inspector is satisfied that the premium is small, as compared with the value of the converted securities, and so directs—

(a) receipt of the premium shall not be treated for the purposes of this Act as a disposal of part of the converted securities, and

(b) the premium shall be deducted from any expenditure allowable under this Act as a deduction in computing a gain or loss on the disposal of the new holding by the person receiving or becoming entitled to receive the premium.

(3) A person who is dissatisfied with the refusal of the inspector to give a direction under subsection (2) above may appeal to the Commissioners having jurisdiction on an appeal against an assessment to tax in respect of a gain accruing to him on a disposal of the securities.

(4) Where the allowable expenditure is less than the premium (or is nil)—

(a) subsections (2) and (3) above shall not apply, and

(b) if the recipient so elects (and there is any allowable expenditure)—

(i) the amount of the premium shall be reduced by the amount of the allowable expenditure, and

(ii) none of that expenditure shall be allowable as a deduction in computing a gain accruing on the occasion of the conversion, or on any subsequent occasion.

(5) In subsection (4) above "allowable expenditure" means expenditure which immediately before the conversion was attributable to the converted securities under paragraphs (a) and (b) of section 38(1).

134 Compensation stock.

(1) This section has effect where gilt-edged securities are exchanged for shares in pursuance of any enactment (including an enactment passed after this Act) which provides for the compulsory acquisition of any shares and the issue of gilt-edged securities instead.

(2) The exchange shall not constitute a conversion of securities within section 132 and shall be treated as not involving any disposal of the shares by the person from whom they were compulsorily acquired but—

(a) there shall be calculated the gain or loss that would have accrued to him if he had then disposed of the shares for a consideration equal to the value of the shares as determined for the purpose of the exchange, and

(b) on a subsequent disposal of the whole or part of the gilt-edged securities by the person to whom they were issued—

(i) there shall be deemed to accrue to him the whole or a corresponding part of the gain or loss mentioned in paragraph (a) above, and

(ii) section 115(1) shall not have effect in relation to any gain or loss that is deemed to accrue as aforesaid.

(3) Where a person to whom gilt-edged securities of any kind were issued as mentioned in subsection (1) above disposes of securities of that kind, the securities of which he disposes—

(a) shall, so far as possible, be identified with securities which were issued to him as mentioned in subsection (1) above rather than with other securities of that kind, and

(b) subject to paragraph (a) above, shall be identified with securities issued at an earlier time rather than those issued at a later time.

(4) Subsection (2)(b) above shall not apply to any disposal falling within the provisions of section 58(1), 62(4) or 171(1) but a person who has acquired the securities on a disposal falling within those provisions (and without there having been a previous disposal not falling within those provisions or a devolution on death) shall be treated for the purposes of subsections (2)(b) and (3) above as if the securities had been issued to him.

(5) Where the gilt-edged securities to be exchanged for any shares are not issued until after the date on which the shares are compulsorily acquired but on that date a right to the securities is granted, this section shall have effect as if the exchange had taken place on that date, as if references to the issue of the securities and the person to whom they were issued were references to the grant of the right and the person to whom it was granted and references to the disposal of the securities included references to disposals of the rights.

(6) In this section "shares" includes securities within the meaning of section 132.

(7) This section does not apply where the compulsory acquisition took place before 7th April 1976.

Company reconstructions and amalgamations

135 Exchange of securities for those in another company.

(1) Subsection (3) below has effect where a company ("company A") issues shares or debentures to a person in exchange for shares in or debentures of another company ("company B") and—

(a) company A holds, or in consequence of the exchange will hold, more than one-quarter of the ordinary share capital (as defined in section 832(1) of the Taxes Act) of company B, or

(b) company A issues the shares or debentures in exchange for shares as the result of a general offer—

(i) which is made to members of company B or any class of them (with or without exceptions for persons connected with company A), and

(ii) which is made in the first instance on a condition such that if it were satisfied company A would have control of company B **[**F7or

(c) company A holds, or in consequence of the exchange will hold, the greater part of the voting power in company B**]**

(2) Subsection (3) below also has effect where under section 136 persons are to be treated as exchanging shares or debentures held by them in consequence of the arrangement there mentioned.

(3) Subject to sections 137 and 138, sections 127 to 131 shall apply with any necessary adaptations as if the 2 companies mentioned in subsection (1) above or, as the case may be, in section 136 were the same company and the exchange were a reorganisation of its share capital.

Textual Amendments

F7 Words in s. 135(1) inserted (*retrosp.*) by 1992 c. 48, **s. 35(1)**

136 Reconstruction or amalgamation involving issue of securities.

(1) Where—

(a) an arrangement between a company and the persons holding shares in or debentures of the company, or any class of such shares or debentures, is entered into for the purposes of or in connection with a scheme of reconstruction or amalgamation, and

(b) under the arrangement another company issues shares or debentures to those persons in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of shares in or debentures of the first-mentioned company, but the shares in or debentures of the first-mentioned company are either retained by those persons or cancelled,

then those persons shall be treated as exchanging the first-mentioned shares or debentures for those held by them in consequence of the arrangement (any shares or debentures retained being for this purpose regarded as if they had been cancelled and replaced by a new issue), and subsections (2) and (3) of section 135 shall apply accordingly.

(2) In this section "scheme of reconstruction or amalgamation" means a scheme for the reconstruction of any company or companies or the amalgamation of any 2 or more companies, and references to shares or debentures being retained include their being retained with altered rights or in an altered form whether as the result of reduction, consolidation, division or otherwise.

(3) This section, and section 135(2), shall apply in relation to a company which has no share capital as if references to shares in or debentures of a company included references to any interests in the company possessed by members of the company.

137 Restriction on application of sections 135 and 136.

(1) Subject to subsection (2) below, and section 138, neither section 135 nor section 136 shall apply to any issue by a company of shares in or debentures of that company

in exchange for or in respect of shares in or debentures of another company unless the exchange, reconstruction or amalgamation in question is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to capital gains tax or corporation tax.

(2) Subsection (1) above shall not affect the operation of section 135 or 136 in any case where the person to whom the shares or debentures are issued does not hold more than 5 per cent. of, or of any class of, the shares in or debentures of the second company mentioned in subsection (1) above.

(3) For the purposes of subsection (2) above shares or debentures held by persons connected with the person there mentioned shall be treated as held by him.

(4) If any tax assessed on a person (the chargeable person) by virtue of subsection (1) above is not paid within 6 months from the date when it is payable, any other person who—

(a) holds all or any part of the shares or debentures that were issued to the chargeable person, and

(b) has acquired them without there having been, since their acquisition by the chargeable person, any disposal of them not falling within section 58(1) or 171,

may, at any time within 2 years from the time when the tax became payable, be assessed and charged (in the name of the chargeable person) to all or, as the case may be, a corresponding part of the unpaid tax; and a person paying any amount of tax under this subsection shall be entitled to recover a sum of that amount from the chargeable person.

(5) With respect to chargeable gains accruing in chargeable periods ending after such day as the Treasury may by order appoint, in subsection (4) above—

(a) for the words “the date when it is payable" there shall be substituted “ the date determined under subsection (4A) below ”;

(b) for the words “the time when the tax became payable" there shall be substituted “ that date ”; and

(c) for the words “a sum" onwards there shall be substituted “ from the chargeable person a sum equal to that amount together with any interest paid by him under section 87A of the Management Act on that amount ”;

and after that subsection there shall be inserted—

“(4A) The date referred to in subsection (4) above is whichever is the later of—

(a) the date when the tax becomes due and payable by the chargeable person; and

(b) the date when the assessment was made on the chargeable person.”

(6) In this section references to shares or debentures include references to any interests or options to which this Chapter applies by virtue of section 136(3) or 147.

Commencement Information

I1 S. 137(5):30.9.1993 appointed for the purposes of s. 137(5) by S.I. 1992/3066, **art. 2(2)(d)** in force at 30.9.1993 by S.I. 1992/3066, **art. 2(2)(d)**

138 Procedure for clearance in advance.

(1) Section 137 shall not affect the operation of section 135 or 136 in any case where, before the issue is made, the Board have, on the application of either company mentioned in section 137(1), notified the company that the Board are satisfied that the exchange, reconstruction or amalgamation will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in section 137(1).

(2) Any application under subsection (1) above shall be in writing and shall contain particulars of the operations that are to be effected and the Board may, within 30 days of the receipt of the application or of any further particulars previously required under this subsection, by notice require the applicant to furnish further particulars for the purpose of enabling the Board to make their decision; and if any such notice is not complied with within 30 days or such longer period as the Board may allow, the Board need not proceed further on the application.

(3) The Board shall notify their decision to the applicant within 30 days of receiving the application or, if they give a notice under subsection (2) above, within 30 days of the notice being complied with.

(4) If the Board notify the applicant that they are not satisfied as mentioned in subsection (1) above or do not notify their decision to the applicant within the time required by subsection (3) above, the applicant may within 30 days of the notification or of that time require the Board to transmit the application, together with any notice given and further particulars furnished under subsection (2) above, to the Special Commissioners; and in that event any notification by the Special Commissioners shall have effect for the purposes of subsection (1) above as if it were a notification by the Board.

(5) If any particulars furnished under this section do not fully and accurately disclose all facts and considerations material for the decision of the Board or the Special Commissioners, any resulting notification that the Board or Commissioners are satisfied as mentioned in subsection (1) above shall be void.

[F8 138A Use of earn-out rights for exchange of securities.

(1) For the purposes of this section an earn-out right is so much of any right conferred on any person ("the seller") as—

(a) constitutes the whole or any part of the consideration for the transfer by him of shares in or debentures of a company ("the old securities");

(b) consists in a right to be issued with shares in or debentures of another company ("the new company");

(c) is such that the value or quantity of the shares or debentures to be issued in pursuance of the right ("the new securities") is unascertainable at the time when the right is conferred; and

(d) is not capable of being discharged in accordance with its terms otherwise than by the issue of the new securities.

(2) Where—

(a) there is an earn-out right,

(b) the exchange of the old securities for the earn-out right is an exchange to which section 135 would apply, in a manner unaffected by section 137, if the

earn-out right were an ascertainable amount of shares in or debentures of the new company, and

(c) the seller elects under this section for the earn-out right to be treated as a security of the new company,

this Act shall have effect, in the case of the seller and every other person who from time to time has the earn-out right, in accordance with the assumptions specified in subsection (3) below.

(3) Those assumptions are—

(a) that the earn-out right is a security within the definition in section 132;

(b) that the security consisting in the earn-out right is a security of the new company and is incapable of being a qualifying corporate bond for the purposes of this Act;

(c) that references in this Act (including those in this section) to a debenture include references to a right that is assumed to be a security in accordance with paragraph (a) above; and

(d) that the issue of shares or debentures in pursuance of such a right constitutes the conversion of the right, in so far as it is discharged by the issue, into the shares or debentures that are issued.

(4) For the purposes of this section where—

(a) any right which is assumed, in accordance with this section, to be a security of a company ("the old right") is extinguished,

(b) the whole of the consideration for the extinguishment of the old right consists in another right ("the new right") to be issued with shares in or debentures of that company,

(c) the new right is such that the value or quantity of the shares or debentures to be issued in pursuance of the right ("the replacement securities") is unascertainable at the time when the old right is extinguished,

(d) the new right is not capable of being discharged in accordance with its terms otherwise than by the issue of the replacement securities, and

(e) the person on whom the new right is conferred elects under this section for it to be treated as a security of that company,

the assumptions specified in subsection (3) above shall have effect in relation to the new right, in the case of that person and every other person who from time to time has the new right, as they had effect in relation to the old right.

(5) An election under this section in respect of any right must be made, by a notice given to an officer of the Board—

(a) in the case of an election by a company within the charge to corporation tax, within the period of two years from the end of the accounting period in which the right is conferred; and

(b) in any other case, on or before the first anniversary of the 31st January next following the year of assessment in which that right is conferred.

(6) An election under this section shall be irrevocable.

(7) Subject to subsections (8) to (10) below, where any right to be issued with shares in or debentures of a company is conferred on any person, the value or quantity of the shares or debentures to be issued in pursuance of that right shall be taken for the purposes of this section to be unascertainable at a particular time if, and only if—

(a) it is made referable to matters relating to any business or assets of one or more relevant companies; and

(b) those matters are uncertain at that time on account of future business or future assets being included in the business or assets to which they relate.

(8) Where a right to be issued with shares or debentures is conferred wholly or partly in consideration for the transfer of other shares or debentures or the extinguishment of any right, the value and quantity of the shares or debentures to be issued shall not be taken for the purposes of this section to be unascertainable in any case where, if—

(a) the transfer or extinguishment were a disposal, and

(b) a gain on that disposal fell to be computed in accordance with this Act,

the shares or debentures to be issued would, in pursuance of section 48, be themselves regarded as, or as included in, the consideration for the disposal.

(9) Where any right to be issued with shares in or debentures of a company comprises an option to choose between shares in that company and debentures of that company, the existence of that option shall not, by itself, be taken for the purposes of this section either—

(a) to make unascertainable the value or quantity of the shares or debentures to be issued; or

(b) to prevent the requirements of subsection (1)(b) and (d) or (4)(b) and (d) above from being satisfied in relation to that right.

(10) For the purposes of this section the value or quantity of shares or debentures shall not be taken to be unascertainable by reason only that it has not been fixed if it will be fixed by reference to the other and the other is ascertainable.

(11) In subsection (7) above "relevant company", in relation to any right to be issued with shares in or debentures of a company, means—

(a) that company or any company which is in the same group of companies as that company; or

(b) the company for whose shares or debentures that right was or was part of the consideration, or any company in the same group of companies as that company;

and in this subsection the reference to a group of companies shall be construed in accordance with section 170(2) to (14).**]**

Textual Amendments

F8 S. 138A inserted (retrospectively) by Finance Act 1997 (c. 16), **s. 89(1)(2)** (with s. 89(3)-(8))

139 Reconstruction or amalgamation involving transfer of business.

(1) Subject to the provisions of this section, where—

(a) any scheme of reconstruction or amalgamation involves the transfer of the whole or part of a company's business to another company, and

(b) at the time of the transfer both the companies are resident in the United Kingdom, and

(c) the first-mentioned company receives no part of the consideration for the transfer (otherwise than by the other company taking over the whole or part of the liabilities of the business),

then, so far as relates to corporation tax on chargeable gains, the 2 companies shall be treated as if any assets included in the transfer were acquired by the one company from the other company for a consideration of such amount as would secure that on the disposal by way of transfer neither a gain nor a loss would accrue to the company making the disposal, and for the purposes of Schedule 2 the acquiring company shall be treated as if the respective acquisitions of the assets by the other company had been the acquiring company's acquisition of them.

(2) This section does not apply in relation to an asset which, until the transfer, formed part of trading stock of a trade carried on by the company making the disposal, or in relation to an asset which is acquired as trading stock for the purposes of a trade carried on by the company acquiring the asset.

Section 170(1) applies for the purposes of this subsection.

F9(3) . . . . . .

(4) This section does not apply in the case of a transfer of the whole or part of a company's business to a unit trust scheme to which section 100(2) applies or which is an authorised unit trust or to an investment trust.

(5) This section does not apply unless the reconstruction or amalgamation is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to corporation tax, capital gains tax or income tax; but the foregoing provisions of this subsection shall not affect the operation of this section in any case where, before the transfer, the Board have, on the application of the acquiring company, notified the company that the Board are satisfied that the reconstruction or amalgamation will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as aforesaid.

Subsections (2) to (5) of section 138 shall have effect in relation to this subsection as they have effect in relation to subsection (1) of that section.

(6) Where, if the company making the disposal had not been wound up, tax could have been assessed on it by virtue of subsection (5) above, that tax may be assessed and charged (in the name of the company making the disposal) on the company to which the disposal is made.

(7) If any tax assessed on a company ("the chargeable company") by virtue of subsection (5) or (6) above is not paid within 6 months from the date when it is payable, any other person who—

(a) holds all or any part of the assets in respect of which the tax is charged; and

(b) either is the company to which the disposal was made or has acquired the assets without there having been any subsequent disposal not falling within this section or section 171,

may, within 2 years from the time when the tax became payable, be assessed and charged (in the name of the chargeable company) to all or, as the case may be, a corresponding part of the unpaid tax; and a person paying any amount of tax under this section shall be entitled to recover a sum of that amount from the chargeable company.

(8) With respect to chargeable gains accruing in chargeable periods ending after such day as the Treasury may by order appoint, in subsection (7) above—

(a) for the words “when it is payable" there shall be substituted “ when it is due and payable or, if later, the date when the assessment is made on the company ”;

(b) for the words “the time when the tax became payable" there shall be substituted “ the later of those dates ”; and

(c) for the words “a sum" onwards there shall be substituted “ from the chargeable company a sum equal to that amount together with any interest paid by him under section 87A of the Management Act on that amount ”.

(9) In this section “scheme of reconstruction or amalgamation” means a scheme for the reconstruction of any company or companies or the amalgamation of any 2 or more companies.

Textual Amendments

F9 S. 139(3) repealed (with effect in accordance with s. 251(1)(a)(5) of the amending Act) by Finance Act 1994 (c. 9), s. 251(5), **Sch. 26 Pt. VIII(1)**

Modifications etc. (not altering text)

C5 S. 139 excluded (27.7.1993 with application as mentioned in s. 165(1)) by 1993 c. 34, s. 169, **Sch. 17 para. 7(2)(b)**

Commencement Information

I2 S. 139(8): 30.9.1993 appointed for the purposes of s. 139(8) by S.I. 1992/3066, **art. 2(2)(d)**

140 Postponement of charge on transfer of assets to non-resident company.

(1) This section applies where a company resident in the United Kingdom carries on a trade outside the United Kingdom through a branch or agency and—

(a) that trade, or part of it, together with the whole assets of the company used for the purposes of the trade or part (or together with the whole of those assets other than cash) is transferred to a company not resident in the United Kingdom;

(b) the trade or part is so transferred wholly or partly in exchange for securities consisting of shares, or of shares and loan stock, issued by the transferee company to the transferor company;

(c) the shares so issued, either alone or taken together with any other shares in the transferee company already held by the transferor company, amount in all to not less than one quarter of the ordinary share capital of the transferee company; and

(d) either no allowable losses accrue to the transferor company on the transfer or the aggregate of the chargeable gains so accruing exceeds the aggregate of the allowable losses so accruing;

and also applies in any case where section 268A of the [M20]Income and Corporation Taxes Act 1970 applied unless the deferred gain had been wholly taken into account in accordance with that section before the coming into force of this section.

Section 170(1) shall apply for the purposes of this section.

(2) In any case to which this section applies the transferor company may claim that this Act shall have effect in accordance with the following provisions.

(3) Any allowable losses accruing to the transferor company on the transfer shall be set off against the chargeable gains so accruing and the transfer shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses and—

(a) if the securities are the whole consideration for the transfer, the whole of that gain shall be treated as not accruing to the transferor company on the transfer but an equivalent amount ("the deferred gain") shall be brought into account in accordance with subsections (4) and (5) below;

(b) if the securities are not the whole of that consideration—

(i) paragraph (a) above shall apply to the appropriate proportion of that gain; and

(ii) the remainder shall be treated as accruing to the transferor company on the transfer.

In paragraph (b)(i) above "the appropriate proportion" means the proportion that the market value of the securities at the time of the transfer bears to the market value of the whole of the consideration at that time.

(4) If at any time after the transfer the transferor company disposes of the whole or part of the securities held by it immediately before that time, the consideration received by it on the disposal shall be treated as increased by the whole or the appropriate proportion of the deferred gain so far as not already taken into account under this subsection or subsection (5) below.

In this subsection "the appropriate proportion" means the proportion that the market value of the part of the securities disposed of bears to the market value of the securities held immediately before the disposal.

(5) If at any time within 6 years after the transfer the transferee company disposes of the whole or part of the relevant assets held by it immediately before that time there shall be deemed to accrue to the transferor company as a chargeable gain on that occasion the whole or the appropriate proportion of the deferred gain so far as not already taken into account under this subsection or subsection (4) above.

In this subsection "relevant assets" means assets the chargeable gains on which were taken into account in arriving at the deferred gain and "the appropriate proportion" means the proportion which the chargeable gain so taken into account in respect of the part of the relevant assets disposed of bears to the aggregate of the chargeable gains so taken into account in respect of the relevant assets held immediately before the time of the disposal.

(6) There shall be disregarded—

(a) for the purposes of subsection (4) above any disposal to which section 171 applies; and

(b) for the purposes of subsection (5) above any disposal to which that section would apply apart from section 170(2)(a) and (9);

and where a person acquires securities or an asset on a disposal disregarded for the purposes of subsection (4) or (5) above (and without there having been a previous disposal not so disregarded) a disposal of the securities or asset by that person shall be treated as a disposal by the transferor or, as the case may be, transferee company.

[[F10](6A) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 140C.**]**

(7) If in the case of any such transfer as was mentioned in section 268(1) of the [M21]Income and Corporation Taxes Act 1970 there were immediately before the coming into force of this section chargeable gains which by virtue of section 268(2) and 268A(8) of that Act were treated as not having accrued to the transferor company, subsection (4) above shall (without any claim in that behalf) apply to the aggregate of those gains as if references to the deferred gain were references to that aggregate and as if references to the transfer and the securities were references to the transfer and the shares, or shares and loan stock, mentioned in section 268(1).

(8) If in the case of any such transfer as was mentioned in section 268A(1) of the [M22]Income and Corporation Taxes Act 1970 there were immediately before the coming into force of this section deferred gains which by virtue of section 268A(3) were treated as not having accrued to the transferor company, subsections (4) and (5) above shall (without any claim in that behalf) apply to those deferred gains as they apply to gains deferred by virtue of subsection (3) above (as if the references to the transfer and the securities were references to the transfer and securities mentioned in section 268A(1)).

Textual Amendments

F10 S. 140(6A) inserted (*retrosp.*) by 1992 c. 48, **s. 46(1)(4)**

Marginal Citations

M20 1970 c. 10.
M21 1970 c. 10.
M22 1970 c. 10.

[F11 Transfers concerning companies of different member States]

Textual Amendments

F11 Cross heading inserted (*retrosp.*) by 1992 c. 48, **s.44**

[F12 140A Transfer of a UK trade.

(1) This section applies where—

(a) a qualifying company resident in one member State (company A)

transfers the whole or part of a trade carried on by it in the United Kingdom to a qualifying company resident in another member State (company B),

(b) the transfer is wholly in exchange for securities issued by company B to company A,

(c) a claim is made under this section by company A and company B,

(d) section 140B does not prevent this section applying, and

(e) the appropriate condition is met in relation to company B immediately after the time of the transfer.

(2) Where immediately after the time of the transfer company B is not resident in the United Kingdom, the appropriate condition is that were it to dispose of the assets

included in the transfer any chargeable gains accruing to it on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 10(3).

(3) Where immediately after the time of the transfer company B is resident in the United Kingdom, the appropriate condition is that none of the assets included in the transfer is one in respect of which, by virtue of the asset being of a description specified in double taxation relief arrangements, the company falls to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to it on a disposal.

(4) Where this section applies—

(a) the two companies shall be treated, so far as relates to corporation tax on chargeable gains, as if any assets included in the transfer were acquired by company B from company A for a consideration of such amount as would secure that on the disposal by way of transfer neither a gain nor a loss would accrue to company A;

(b) section 25(3) shall not apply to any such assets by reason of the transfer (if it would apply apart from this paragraph).

(5) For the purposes of subsection (1)(a) above, a company shall be regarded as resident in a member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.

(6) For the purposes of subsection (5) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.

(7) In this section—

"qualifying company" means a body incorporated under the law of a member State;

"securities" includes shares.**]**

Textual Amendments

F12 S. 140A inserted (*retrosp.*) by 1992 c. 48, **s.44**

[F13 140B Section 140A: anti-avoidance.

(1) Section 140A shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.

(2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A and company B notified those companies that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.

(3) Subsections (2) to (5) of section 138 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section.**]**

Textual Amendments

F13 S. 140B inserted (*retrosp.*) by 1992 c. 48, **s.44**

[140C F14Transfer of a non-UK trade.

(1) This section applies where—

(a) a qualifying company resident in the United Kingdom (company A)

transfers to a qualifying company resident in another member State (company B) the whole or part of a trade which, immediately before the time of the transfer, company A carried on in a member State other than the United Kingdom through a branch or agency,

(b) the transfer includes the whole of the assets of company A used for the purposes of the trade or part (or the whole of those assets other than cash),

(c) the transfer is wholly or partly in exchange for securities issued by company B to company A,

(d) the aggregate of the chargeable gains accruing to company A on the transfer exceeds the aggregate of the allowable losses so accruing,

(e) a claim is made under this section by company A, and

(f) section 140D does not prevent this section applying.

(2) In a case where this section applies, this Act shall have effect in accordance with subsection (3) below.

(3) The allowable losses accruing to company A on the transfer shall be set off against the chargeable gains so accruing and the transfer shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses.

(4) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 140.

(5) In a case where this section applies, section 815A of the Taxes Act shall also apply.

(6) For the purposes of subsection (1)(a) above—

(a) a company shall not be regarded as resident in the United Kingdom if it falls to be regarded for the purposes of any double taxation relief arrangements to which the United Kingdom is a party as resident in a territory which is not within any of the member States;

(b) a company shall be regarded as resident in another member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.

(7) For the purposes of subsection (6)(b) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.

(8) Section 442(3) of the Taxes Act (overseas business of UK insurance companies) shall be ignored in arriving at the chargeable gains accruing to company A on the transfer, and the allowable losses so accruing, for the purposes of subsections (1)(d) and (3) above.

(9) In this section—

"qualifying company" means a body incorporated under the law of a member State;

"securities" includes shares.**]**

Textual Amendments

F14 S. 140C inserted (*retrosp.*) by 1992 c. 48, **s. 45**

[F15 140D Section 140C: anti-avoidance.

(1) Section 140C shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.

(2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A notified that company that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.

(3) Subsections (2) to (5) of section 138 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section.**]**

Textual Amendments

F15 S. 140D inserted (*retrosp.*) by 1992 c. 48, **s. 45**

CHAPTER III

MISCELLANEOUS PROVISIONS RELATING TO
COMMODITIES, FUTURES, OPTIONS AND OTHER SECURITIES

141 Stock dividends: consideration for new holding.

(1) In applying section 128(1) in relation to the issue of any share capital to which section 249 of the Taxes Act (stock dividends) applies as involving a reorganisation of the company's share capital, there shall be allowed, as consideration given for so much of the new holding as was issued as mentioned in subsection (4), (5) or (6) of section 249 (read in each case with subsection (3) of that section) an amount equal to what is, for that much of the new holding, the appropriate amount in cash within the meaning of section 251(2) of the Taxes Act.

(2) This section shall have effect notwithstanding section 128(2).

142 Capital gains on certain stock dividends.

(1) This section applies where a company issues any share capital to which section 249 of the Taxes Act applies in respect of shares in the company held by a person as trustee, and another person is at the time of the issue absolutely entitled thereto as against the

trustee or would be so entitled but for being an infant or other person under disability (or 2 or more other persons are or would be jointly so entitled thereto).

(2) Notwithstanding paragraph (a) of section 126(2) the case shall not constitute a reorganisation of the company's share capital for the purposes of sections 126 to 128.

(3) Notwithstanding section 17(1), the person who is or would be so entitled to the share capital (or each of the persons who are or would be jointly so entitled thereto) shall be treated for the purposes of section 38(1)(a) as having acquired that share capital, or his interest in it, for a consideration equal to the appropriate amount in cash within the meaning of section 251(2) to (4) of the Taxes Act.

143 Commodity and financial futures and qualifying options.

(1) If, apart from section 128 of the Taxes Act, gains arising to any person in the course of dealing in commodity or financial futures or in qualifying options would constitute, for the purposes of the Tax Acts, profits or gains chargeable to tax under Schedule D otherwise than as the profits of a trade, then his outstanding obligations under any futures contract entered into in the course of that dealing and any qualifying option granted or acquired in the course of that dealing shall be regarded as assets to the disposal of which this Act applies.

(2) In subsection (1) above—

(a) "commodity or financial futures" means commodity futures or financial futures which are for the time being dealt in on a recognised futures exchange; and

(b) "qualifying option" means a traded option or financial option as defined in section 144(8).

(3) Notwithstanding the provisions of subsection (2)(a) above, where, otherwise than in the course of dealing on a recognised futures exchange—

(a) an authorised person or listed institution enters into a commodity or financial futures contract with another person, or

(b) the outstanding obligations under a commodity or financial futures contract to which an authorised person or listed institution is a party are brought to an end by a further contract between the parties to the futures contract,

then, except in so far as any gain or loss arising to any person from that transaction arises in the course of a trade, that gain or loss shall be regarded for the purposes of subsection (1) above as arising to him in the course of dealing in commodity or financial futures.

F16(4) . . . . . .

(5) For the purposes of this Act, where, in the course of dealing in commodity or financial futures, a person who has entered into a futures contract closes out that contract by entering into another futures contract with obligations which are reciprocal to those of the first-mentioned contract, that transaction shall constitute the disposal of an asset (namely, his outstanding obligations under the first-mentioned contract) and, accordingly—

(a) any money or money's worth received by him on that transaction shall constitute consideration for the disposal; and

(b) any money or money's worth paid or given by him on that transaction shall be treated as incidental costs to him of making the disposal.

[F17(6) In any case where, in the course of dealing in commodity or financial futures, a person has entered into a futures contract and—

(a) he has not closed out the contract (as mentioned in subsection (5) above), and

(b) he becomes entitled to receive or liable to make a payment, whether under the contract or otherwise, in full or partial settlement of any obligations under the contract,

then, for the purposes of this Act, he shall be treated as having disposed of an asset (namely, that entitlement or liability) and the payment received or made by him shall be treated as consideration for the disposal or, as the case may be, as incidental costs to him of making the disposal.

(7) Section 46 shall not apply to obligations under—

(a) a commodity or financial futures contract which is entered into by a person in the course of dealing in such futures on a recognised futures exchange; or

(b) a commodity or financial futures contract to which an authorised person or listed institution is a party.

(8) In this section—

"authorised person" has the same meaning as in the Financial Services Act 1986, and

"listed institution" has the same meaning as in section 43 of that Act.**]**

Textual Amendments

F16 S. 143(4) repealed (with effect in accordance with s. 95(2) of the amending Act) by Finance Act 1994 (c. 9), s. 95(1), **Sch. 26 Pt. V(9)**

F17 S. 143(6)(7)(8) substituted for s. 143(6) (with effect in accordance with s. 95(2) of the amending Act) by Finance Act 1994 (c. 9), **s. 95(1)**

144 Options and forfeited deposits.

(1) Without prejudice to section 21, the grant of an option, and in particular—

(a) the grant of an option in a case where the grantor binds himself to sell what he does not own, and because the option is abandoned, never has occasion to own, and

(b) the grant of an option in a case where the grantor binds himself to buy what, because the option is abandoned, he does not acquire,

is the disposal of an asset (namely of the option), but subject to the following provisions of this section as to treating the grant of an option as part of a larger transaction.

(2) If an option is exercised, the grant of the option and the transaction entered into by the grantor in fulfilment of his obligations under the option shall be treated as a single transaction and accordingly—

(a) if the option binds the grantor to sell, the consideration for the option is part of the consideration for the sale, and

(b) if the option binds the grantor to buy, the consideration for the option shall be deducted from the cost of acquisition incurred by the grantor in buying in pursuance of his obligations under the option.

(3) The exercise of an option by the person for the time being entitled to exercise it shall not constitute the disposal of an asset by that person, but, if an option is exercised then the acquisition of the option (whether directly from the grantor or not) and the transaction entered into by the person exercising the option in exercise of his rights under the option shall be treated as a single transaction and accordingly—

(a) if the option binds the grantor to sell, the cost of acquiring the option shall be part of the cost of acquiring what is sold, and

(b) if the option binds the grantor to buy, the cost of the option shall be treated as a cost incidental to the disposal of what is bought by the grantor of the option.

(4) The abandonment of—

(a) a quoted option to subscribe for shares in a company, or

(b) a traded option or financial option, or

(c) an option to acquire assets exercisable by a person intending to use them, if acquired, for the purpose of a trade carried on by him,

shall constitute the disposal of an asset (namely of the option); but the abandonment of any other option by the person for the time being entitled to exercise it shall not constitute the disposal of an asset by that person.

(5) This section shall apply in relation to an option binding the grantor both to sell and to buy as if it were 2 separate options with half the consideration attributed to each.

(6) In this section references to an option include references to an option binding the grantor to grant a lease for a premium, or enter into any other transaction which is not a sale, and references to buying and selling in pursuance of an option shall be construed accordingly.

(7) This section shall apply in relation to a forfeited deposit of purchase money or other consideration money for a prospective purchase or other transaction which is abandoned as it applies in relation to the consideration for an option which binds the grantor to sell and which is not exercised.

(8) In subsection (4) above and sections 146 and 147—

(a) "quoted option" means an option which, at the time of the abandonment or other disposal, is quoted on a recognised stock exchange;

(b) "traded option" means an option which, at the time of the abandonment or other disposal, is quoted on a recognised stock exchange or a recognised futures exchange; and

(c) "financial option" means an option which is not a traded option, as defined in paragraph (b) above, but which, subject to subsection (9) below—

(i) relates to currency, shares, securities or an interest rate and is granted (otherwise than as agent) by a member of a recognised stock exchange, by an authorised person within the meaning of the [M23]Financial Services Act 1986 or by a listed institution within the meaning of section 43 of that Act; or

(ii) relates to shares or securities which are dealt in on a recognised stock exchange and is granted by a member of such an exchange, acting as agent; or

(iii) relates to currency, shares, securities or an interest rate and is granted to such an authorised person or institution as is referred to in sub-paragraph (i) above and concurrently and in association with an option falling within that sub-paragraph which is granted by that

authorised person or institution to the grantor of the first-mentioned option; or

(iv) relates to shares or securities which are dealt in on a recognised stock exchange and is granted to a member of such an exchange, including such a member acting as agent.

(9) If the Treasury by order so provide, an option of a description specified in the order shall be taken to be within the definition of "financial option" in subsection (8)(c) above.

Modifications etc. (not altering text)

C6 S. 144 extended (27.7.1993) by 1993 c. 37, s. 12, **Sch. 2 Pt. I para. 26(2)**

C7 S. 144 modified (19.9.1994) by Coal industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 6(1)(2)** (with Sch. 4 paras. 6(4), 14); S.I. 1994/2189, art. 2, Sch.

Marginal Citations

M23 1986 c. 60.

[F18 144A Cash-settled options.

(1) In any case where—

(a) an option is exercised; and

(b) the nature of the option (or its exercise) is such that the grantor of the option is liable to make, and the person exercising it is entitled to receive, a payment in full settlement of all obligations under the option,

subsections (2) and (3) below shall apply in place of subsections (2) and (3) of section 144.

(2) As regards the grantor of the option—

(a) he shall be treated as having disposed of an asset (namely, his liability to make the payment) and the payment made by him shall be treated as incidental costs to him of making the disposal; and

(b) the grant of the option and the disposal shall be treated as a single transaction and the consideration for the option shall be treated as the consideration for the disposal.

(3) As regards the person exercising the option—

(a) he shall be treated as having disposed of an asset (namely, his entitlement to receive the payment) and the payment received by him shall be treated as the consideration for the disposal;

(b) the acquisition of the option (whether directly from the grantor or not) and the disposal shall be treated as a single transaction and the cost of acquiring the option shall be treated as expenditure allowable as a deduction under section 38(1)(a) from the consideration for the disposal; and

(c) for the purpose of computing the indexation allowance (if any) on the disposal, the cost of the option shall be treated (notwithstanding paragraph (b) above) as incurred when the option was acquired.

(4) In any case where subsections (2) and (3) above would apply as mentioned in subsection (1) above if the reference in that subsection to full settlement included

a reference to partial settlement, those subsections and subsections (2) and (3) of section 144 shall both apply but with the following modifications—

(a) for any reference to the grant or acquisition of the option there shall be substituted a reference to the grant or acquisition of so much of the option as relates to the making and receipt of the payment or, as the case may be, the sale or purchase by the grantor; and

(b) for any reference to the consideration for, or the cost of or of acquiring, the option there shall be substituted a reference to the appropriate proportion of that consideration or cost.

(5) In this section "appropriate proportion" means such proportion as may be just and reasonable in all the circumstances.**]**

Textual Amendments

F18 S. 144A inserted (with effect in accordance with s. 96(2) of the amending Act) by Finance Act 1994 (c. 9), **s. 96(1)**

145 Call options: indexation allowance.

(1) This section applies where, on a disposal to which section 53 applies, the relevant allowable expenditure includes both—

(a) the cost of acquiring an option binding the grantor to sell ("the option consideration"); and

(b) the cost of acquiring what was sold as a result of the exercise of the option ("the sale consideration"),

but does not apply in any case where section 114 applies.

(2) For the purpose of computing the indexation allowance (if any) on the disposal referred to in subsection (1) above—

(a) the option consideration and the sale consideration shall be regarded as separate items of expenditure; and

(b) subsection (4) of section 54 shall apply to neither of those items and, accordingly, they shall be regarded as incurred when the option was acquired and when the sale took place, respectively.

(3) This section has effect notwithstanding section 144, but expressions used in this section have the same meaning as in that section and subsection (5) of that section applies for the purpose of determining the cost of acquiring an option binding the grantor to sell.

146 Options: application of rules as to wasting assets.

(1) Section 46 shall not apply—

(a) to a quoted option to subscribe for shares in a company, or

(b) to a traded option, or financial option, or

(c) to an option to acquire assets exercisable by a person intending to use them, if acquired, for the purpose of a trade carried on by him.

(2) In relation to the disposal by way of transfer of an option (other than an option falling within subsection (1)(a) or (b) above) binding the grantor to sell or buy quoted shares

or securities, the option shall be regarded as a wasting asset the life of which ends when the right to exercise the option ends, or when the option becomes valueless, whichever is the earlier.

Subsections (5) and (6) of section 144 shall apply in relation to this subsection as they apply in relation to that section.

(3) The preceding provisions of this section are without prejudice to the application of sections 44 to 47 to options not within those provisions.

(4) In this section—

(a) "financial option", "quoted option" and "traded option" have the meanings given by section 144(8), and

(b) "quoted shares or securities" means shares or securities which have a quoted market value on a recognised stock exchange in the United Kingdom or elsewhere.

147 Quoted options treated as part of new holdings.

(1) If a quoted option to subscribe for shares in a company is dealt in (on the stock exchange where it is quoted) within 3 months after the taking effect, with respect to the company granting the option, of any reorganisation, reduction, conversion or amalgamation to which Chapter II of this Part applies, or within such longer period as the Board may by notice allow—

(a) the option shall, for the purposes of that Chapter be regarded as the shares which could be acquired by exercising the option, and

(b) section 272(3) shall apply for determining its market value.

(2) In this section "quoted option" has the meaning given by section 144(8).

148 Traded options: closing purchases.

(1) This section applies where a person ("the grantor") who has granted a traded option ("the original option") closes it out by acquiring a traded option of the same description ("the second option").

(2) Any disposal by the grantor involved in closing out the original option shall be disregarded for the purposes of capital gains tax or, as the case may be, corporation tax on chargeable gains.

(3) The incidental costs to the grantor of making the disposal constituted by the grant of the original option shall be treated for the purposes of the computation of the gain as increased by an amount equal to the aggregate of—

(a) the amount or value of the consideration, in money or money's worth, given by him or on his behalf wholly and exclusively for the acquisition of the second option, and

(b) the incidental costs to him of that acquisition.

(4) In this section "traded option" has the meaning given by section 144(8).

149 Rights to acquire qualifying shares.

(1) This section applies where on or after 25th July 1991 (the day on which the [M24]Finance Act 1991 was passed) a building society confers—

(a) on its members, or

(b) on any particular class or description of its members,

any rights to acquire, in priority to other persons, shares in the society which are qualifying shares.

(2) Any such right so conferred shall be regarded for the purposes of capital gains tax as an option granted to, and acquired by, the member concerned for no consideration and having no value at the time of that grant and acquisition.

(3) In this section—

"member" includes a former member, and

"qualifying share" has the same meaning as in section 117(4).

Marginal Citations

M24 1991 c. 31.

[149A [F19]Approved share option schemes.

(1) This section applies where—

(a) an option is granted on or after 16th March 1993,

(b) the option consists of a right to acquire shares in a body corporate and is obtained as mentioned in section 185(1) of the Taxes Act (approved share option schemes), and

(c) section 17(1) would (apart from this section) apply for the purposes of calculating the consideration for the grant of the option.

(2) The grantor of the option shall be treated for the purposes of this Act as if section 17(1) did not apply for the purposes of calculating the consideration and, accordingly, as if the amount or value of the consideration was its actual amount or value.

(3) Where the option is granted wholly or partly in recognition of services or past services in any office or employment, the value of those services shall not be taken into account in calculating the actual amount or value of the consideration.

(4) The preceding provisions of this section shall not affect the treatment for the purposes of this Act of the person to whom the option is granted.**]**

Textual Amendments

F19 S. 149A inserted (27.7.1993) by 1993 c. 34, **s.104**

150 Business expansion schemes.

(1) In this section "relief" means relief under Chapter III of Part VII of the Taxes Act, Schedule 5 to the [M25]Finance Act 1983 ("the 1983 Act") or Chapter II of Part IV of the [M26]Finance Act 1981 ("the 1981 Act") and "eligible shares" has the meaning given by section 289(4) of the Taxes Act **[**[F20]and references in this section to Chapter III of Part VII of the Taxes Act or any provision of that Chapter are to that Chapter or provision as it applies in relation to shares issued before 1st January 1994**]**.

(2) A gain or loss which accrues to an individual on the disposal of any shares issued after 18th March 1986 in respect of which relief has been given to him and not withdrawn shall not be a chargeable gain or allowable loss for the purposes of capital gains tax.

(3) The sums allowable as deductions from the consideration in the computation for the purposes of capital gains tax of the gain or loss accruing to an individual on the disposal of shares issued before 19th March 1986 in respect of which relief has been given and not withdrawn shall be determined without regard to that relief, except that where those sums exceed the consideration they shall be reduced by an amount equal to—

(a) the amount of that relief; or

(b) the excess,

whichever is the less, but the foregoing provisions of this subsection shall not apply to a disposal falling within section 58(1).

(4) Any question—

(a) as to which of any shares issued to a person at different times, being shares in respect of which relief has been given and not withdrawn, a disposal relates, or

(b) whether a disposal relates to shares in respect of which relief has been given and not withdrawn or to other shares,

shall for the purposes of capital gains tax be determined as for the purposes of section 299 of the Taxes Act, or section 57 of the [M27]Finance Act 1981 if the relief has only been given under that Act; and Chapter I of this Part shall have effect subject to the foregoing provisions of this subsection.

(5) Notwithstanding anything in section 107(1) and (2), section 107 does not apply to shares in respect of which relief has been given and not withdrawn.

(6) Where an individual holds shares which form part of the ordinary share capital of a company and the relief has been given (and not withdrawn) in respect of some but not others, then, if there is within the meaning of section 126 a reorganisation affecting those shares, section 127 shall apply separately to the shares in respect of which the relief has been given (and not withdrawn) and to the other shares (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).

(7) Where section 58 has applied to any eligible shares disposed of by an individual to his or her spouse ("the transferee"), subsection (2) above shall apply in relation to the subsequent disposal of the shares by the transferee to a third party.

(8) Where section 135 or 136 would, but for this subsection, apply in relation to eligible shares issued after 18th March 1986 in respect of which an individual has been given relief, that section shall apply only if the relief is withdrawn.

(9) Sections 127 to 130 shall not apply in relation to any shares in respect of which relief (other than relief under the 1981 Act) has been given and which form part of a company's ordinary share capital if—

(a) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation occurring after 18th March 1986 affecting those shares; and

(b) immediately following the reorganisation, the relief has not been withdrawn in respect of those shares or relief has been given in respect of the allotted shares and not withdrawn.

(10) Where relief is reduced by virtue of subsection (2) of section 305 of the Taxes Act—

(a) the sums allowable as deductions from the consideration in the computation, for the purposes of capital gains tax, of the gain or loss accruing to an individual on the disposal, after 18th March 1986, of any of the allotted shares or debentures shall be taken to include the amount of the reduction apportioned between the allotted shares or (as the case may be) debentures in such a way as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable; and

(b) the sums so allowable on the disposal (in circumstances in which subsections (2) to (8) above do not apply) of any of the shares referred to in section 305(2)(a) shall be taken to be reduced by the amount mentioned in paragraph (a) above, similarly apportioned between those shares.

(11) There shall be made all such adjustments of capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the relief being given or withdrawn.

Textual Amendments

F20 Words in s. 150(1) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 15 para. 29**

Marginal Citations

M25 1983 c. 28.
M26 1981 c. 35.
M27 1981 c. 35.

[F21 150A Enterprise investment scheme.

(1) For the purpose of determining the gain or loss on any disposal of eligible shares by an individual where—

(a) an amount of relief is attributable to the shares, and

(b) apart from this subsection there would be a loss,

the consideration given by him for the shares shall be treated as reduced by the amount of the relief.

(2) Subject to subsection (3) below, if on any disposal of eligible shares by an individual after the end of the period referred to in section 312(1A)(a) of the Taxes Act where an amount of relief is attributable to the shares, there would (apart from this subsection) be a gain, the gain shall not be a chargeable gain.

(3) Where—

(a) an individual's liability to income tax has been reduced (or treated by virtue of section 304 of the Taxes Act (husband and wife) as reduced) for any year of assessment under section 289A of that Act in respect of any issue of shares, and

(b) the amount of the reduction ("A") is less than the amount ("B") which is equal to tax at the lower rate for that year on the amount subscribed for the issue,

then, if there is a disposal of the shares on which there is a gain, subsection (2) above shall apply only to so much of the gain as is found by multiplying it by the fraction—

$$\frac{A}{B}$$

(4) Any question as to—

(a) which of any shares issued to a person at different times a disposal relates, being shares to which relief is attributable, or

(b) whether a disposal relates to shares to which relief is attributable or to other shares,

shall for the purposes of capital gains tax be determined as for the purposes of section 299 of the Taxes Act; and Chapter I of this Part shall have effect subject to the foregoing provisions of this subsection.

(5) Sections 104, 105 and 107 shall not apply to shares to which relief is attributable.

(6) Where—

(a) an individual holds shares which form part of the ordinary share capital of a company, and

(b) relief is attributable to some of the shares but not others,

then, if there is within the meaning of section 126 a reorganisation affecting those shares, section 127 shall apply (subject to the following provisions of this section) separately to the shares to which relief is attributable and to the other shares (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).

(7) Where—

(a) an individual holds shares ("the existing holding") which form part of the ordinary share capital of a company,

(b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation affecting the existing holding, and

(c) immediately following the reorganisation, relief is attributable to the existing holding or the allotted shares,

sections 127 to 130 shall not apply in relation to the existing holding.

(8) Sections 135 and 136 shall not apply in respect of shares to which relief is attributable.

(9) Where the relief attributable to any shares is reduced by virtue of section 305(2) of the Taxes Act—

(a) the sums allowable as deductions from the consideration in the computation, for the purposes of capital gains tax, of the gain or loss accruing to an individual on the disposal of any of the allotted shares or debentures shall be taken to include the amount of the reduction apportioned between the allotted shares or (as the case may be) debentures in such a way as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable, and

(b) the sums so allowable on the disposal (in circumstances in which the preceding provisions of this section do not apply) of any of the shares referred to in section 305(1)(a) shall be taken to be reduced by the amount mentioned in paragraph (a) above, similarly apportioned between those shares.

(10) There shall be made all such adjustments of capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the relief being given or withdrawn.

(11) Chapter III of Part VII of the Taxes Act (enterprise investment scheme) applies for the purposes of this section to determine whether relief is attributable to any shares and,

if so, the amount of relief so attributable; and "eligible shares" has the same meaning as in that Chapter.

(12) References in this section to Chapter III of Part VII of the Taxes Act or any provision of that Chapter are to that Chapter or provision as it applies in relation to shares issued on or after 1st January 1994.**]**

Textual Amendments

F21 S. 150A inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 15 para. 30**

151 Personal equity plans.

(1) The Treasury may make regulations providing that an individual who invests under a plan shall be entitled to relief from capital gains tax in respect of the investments.

(2) Subsections (2) to (5) of section 333 of the Taxes Act (personal equity plans) shall apply in relation to regulations under subsection (1) above as they apply in relation to regulations under subsection (1) of that section but with the substitution for any reference to income tax of a reference to capital gains tax.

(3) Regulations under this section may include provision securing that losses are disregarded for the purposes of capital gains tax where they accrue on the disposal of investments on or after 18th January 1988.

F22**[**(4) Regulations under this section may include provision which, for cases where a person subscribes to a plan by transferring or renouncing shares or rights to shares—

(a) modifies the effect of this Act in relation to their acquisition and their transfer or renunciation; and

(b) makes consequential modifications of the effect of this Act in relation to anything which (apart from the regulations) would have been regarded on or after their acquisition as an indistinguishable part of the same asset.**]**

Textual Amendments

F22 S. 151(4) inserted (27.7.1993) by 1993 c. 34, **s.85**

Status:
Point in time view as at 29/11/1994.

Changes to legislation:
Taxation of Chargeable Gains Act 1992, Part IV is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.