



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

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“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—

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- (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

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- (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.

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- (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.

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- (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

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- (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

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- (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.

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- (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.

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.

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- (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—

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

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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.

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- (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, [F³140A,] 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

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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

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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,

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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).

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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

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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

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- (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.

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- (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)

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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

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- (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,

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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".

Status:

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Changes to legislation:

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