



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART IV

SHARES, SECURITIES, OPTIONS ETC.

CHAPTER I

GENERAL

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.

Status: Point in time view as at 01/04/2010.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Close companies is up to date with all changes known to be in force on or before 14 July 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. (See end of Document for details)

- (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.

[^{F1}(4) This section does not apply in the following cases.

Case 1

Case 1 is where the transfer of the asset is a disposal to which section 171(1) applies (transfers within a group: general provisions).

Case 2

Case 2 is where the transferee is a participator, or an associate of a participator, in the company and an amount equal to the undervalue amount is treated as—

- (a) a distribution within section 209(2)(b) or (4) of the Taxes Act (meaning of “distribution”), or
- (b) a capital distribution within section 122 of this Act (distribution which is not a new holding within Chapter 2).

Case 3

Case 3 is where the transferee is an employee of the company and—

- (a) an amount equal to the undervalue amount is treated as the employee's employment income, and
- (b) no part of that amount is treated as exempt income.]

- (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”.

[^{F2}(6) In this section—

“associate” has the meaning given by [^{F3}section 448 of CTA 2010];

“employee” has the meaning given by section 4 of ITEPA 2003 (as read with section 5(2) of that Act);

“employment income” has the meaning given by section 7(2) of ITEPA 2003;

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“exempt income” has the meaning given by section 8 of ITEPA 2003;
“participator” has the meaning given by [^{F4}section 454 of CTA 2010];
“undervalue amount” means the amount by which the amount or value of the consideration for the transfer is less than the market value of the asset transferred.]

Textual Amendments

- F1** S. 125(4) substituted (with effect in accordance with art. 5(4) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), **5(2)**
- F2** S. 125(6) inserted (with effect in accordance with art. 5(4) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), **5(3)**
- F3** Words in s. 125(6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 232(a)** (with [Sch. 2](#))
- F4** Words in s. 125(6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 232(b)** (with [Sch. 2](#))

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