



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART IV

#### SHARES, SECURITIES, OPTIONS ETC.

### CHAPTER III

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

#### [<sup>F1</sup>142 Capital gains on stock dividends.

- (1) This section applies where any share capital to which [<sup>F2</sup>section 410(2), (3) or (4) of ITTOIA 2005 applies] in respect of shares in the company held by any person.
- (2) The case shall not constitute a reorganisation of the company's share capital for the purposes of sections 126 to 128.
- (3) The person who acquires the share capital by means of its issue shall (notwithstanding section 17(1)) be treated for the purposes of section 38(1)(a) as having acquired that asset for a consideration equal to [<sup>F3</sup>the cash equivalent of the share capital in accordance with section 412 of ITTOIA 2005].]

#### Textual Amendments

- F1** S. 142 substituted for ss. 141, 142 (with application in accordance with s. 126(2) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 126\(1\)](#)
- F2** Words in s. 142(1) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 434\(2\)](#) (with [Sch. 2](#))
- F3** Words in s. 142(3) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 434\(3\)](#) (with [Sch. 2](#))

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**143 Commodity and financial futures and qualifying options.**

(1) If, apart from section 128 of the Taxes Act [<sup>F4</sup>and section 779 of ITTOIA 2005], 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 [<sup>F5</sup>chargeable to tax—

- (a) under Schedule D otherwise than as the profits of a trade, or
- (b) under Chapter 8 of Part 5 of ITTOIA 2005,

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 <sup>F6</sup>... 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 <sup>F6</sup>... 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.

<sup>F7</sup>(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.

[<sup>F8</sup>(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

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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 <sup>F9</sup>... is a party.

[<sup>F10</sup>(8) In this section “authorised person” means a person who—

- (a) falls within section 31(1)(a), (b) or (c) of the Financial Services and Markets Act 2000, and
- (b) has permission under that Act to carry on one or more of the activities specified in Article 14 and, in so far as it applies to that Article, Article 64 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.]

#### Textual Amendments

- F4** Words in s. 143(1) inserted (with effect in accordance with art. 1(3)(4) of the amending S.I.) by [The Income Tax \(Trading and Other Income\) Act 2005 \(Consequential Amendments\) Order 2006 \(S.I. 2006/959\)](#), arts. 1(2), **3(2)(a)**
- F5** Words in s. 143(1) substituted (with effect in accordance with art. 1(3)(4) of the amending S.I.) by [The Income Tax \(Trading and Other Income\) Act 2005 \(Consequential Amendments\) Order 2006 \(S.I. 2006/959\)](#), arts. 1(2), **3(2)(b)**
- F6** Words in s. 143(3)(a)(b) omitted (1.12.2001) by virtue of [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), arts. 1(2)(a), **64(2)**
- F7** 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)**
- F8** 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)**
- F9** Words in s. 143(7)(b) omitted (1.12.2001) by virtue of [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), arts. 1(2)(a), **64(2)**
- F10** S. 143(8) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), arts. 1(2)(a), **64(3)**

#### Modifications etc. (not altering text)

- C2** S. 143(5)(6) applied (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), ss. **562(1)**, 883(1) (with s. 563, Sch. 2)

## 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.

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- (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 [<sup>F11</sup>listed on] a recognised stock exchange;
  - (b) “traded option” means an option which, at the time of the abandonment or other disposal, is [<sup>F12</sup>listed] 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

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- exchange, by an <sup>F13</sup>authorised person within the meaning given by section 143(8)]; 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 <sup>F14</sup>... 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 <sup>F14</sup>... 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.

#### Textual Amendments

- F11** Words in s. 144(8)(a) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 26 para. 8\(3\)](#)
- F12** Word in s. 144(8)(b) substituted (with effect in accordance with Sch. 38 para. 10(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 38 para. 10\(2\)\(a\)](#)
- F13** Words in s. 144(8)(c)(i) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\), arts. 1\(2\)\(a\), 65\(a\)](#)
- F14** Words in s. 144(8)(c)(iii) omitted (1.12.2001) by virtue of [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\), arts. 1\(2\)\(a\), 65\(b\)](#)

#### Modifications etc. (not altering text)

- C3** S. 144 extended (27.7.1993) by 1993 c. 37, s. 12, [Sch. 2 Pt. I para. 26\(2\)](#)
- C4** 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.
- C5** S. 144 applied (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), ss. 562\(1\), 883\(1\)](#) (with s. 563, Sch. 2)

#### <sup>F15</sup>144Z Application of market value rule in case of exercise of option

- (1) <sup>F16</sup>Subject to section 144ZB,] This section applies where—
- (a) an option is exercised, so that by virtue of section 144(2) or (3) the grant or acquisition of the option and the transaction resulting from its exercise are treated as a single transaction, and
- (b) section 17(1) (“the market value rule”) applies, or would apply but for this section, in relation to—
- (i) the grant of the option,
- (ii) the acquisition of the option (whether directly from the grantor or not) by the person exercising it, or
- (iii) the transaction resulting from its exercise.
- (2) If the option binds the grantor to sell—

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- (a) the market value rule does not apply for determining the consideration for the sale, except, where the rule applies for determining the consideration for the option, to that extent (in accordance with section 144(2)(a));
  - (b) the market value rule does not apply for determining the cost to the person exercising the option of acquiring what is sold, except, where the rule applies for determining the cost of acquiring the option, to that extent (in accordance with section 144(3)(a)).
- (3) If the option binds the grantor to buy—
- (a) the market value rule does not apply for determining the cost of acquisition incurred by the grantor, but without prejudice to its application (in accordance with section 144(2)(b)) where the rule applies for determining the consideration for the option;
  - (b) the market value rule does not apply for determining the consideration for the disposal of what is bought, but without prejudice to its application (in accordance with section 144(3)(b)) where the rule applies for determining the cost of the option.
- (4) To the extent that, by virtue of this section, the market value rule does not apply for determining an amount or value, the amount or value to be taken into account is [<sup>F17</sup>(subject to section 119A) the exercise price].

[ In subsection (4) above “exercise price”, in relation to an option, means the amount <sup>F18</sup>(4A) or value of the consideration which, under the terms of the option, is—

- (a) receivable (if the option binds the grantor to buy), or
- (b) payable (if the option binds the grantor to sell),

as a result of the exercise of the option (and does not include the amount or value of any consideration for the acquisition of the option (whether directly from the grantor or not)).]

[<sup>F19</sup>(5) Subsections (5) and (6) of section 144 shall apply for the purposes of this section and sections 144ZB to 144ZD as they apply for the purposes of that section.]]

#### Textual Amendments

- F15** S. 144ZA inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 158\(1\)](#) (with [s. 158\(2\)](#))
- F16** Words in s. 144ZA(1) inserted (with effect in accordance with Sch. 5 para. 6(1) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 5 para. 1\(2\)](#)
- F17** Words in s. 144ZA(4) substituted (with effect in accordance with Sch. 5 para. 6(1) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 5 para. 1\(3\)](#)
- F18** S. 144ZA(4A) inserted (with effect in accordance with Sch. 5 para. 6(1) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 5 para. 1\(4\)](#)
- F19** S. 144ZA(5) substituted (with effect in accordance with Sch. 5 para. 6(1) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 5 para. 1\(5\)](#)

[<sup>F20</sup>**144ZB**Exception to rule in section 144ZA

- (1) This section applies where—
  - (a) section 144ZA would apply but for this section in relation to an option, and
  - (b) the exercise of the option is non-commercial (see section 144ZC).
- (2) But this section does not apply if—

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- (a) the option is a securities option within the meaning of Chapter 5 of Part 7 of ITEPA 2003 (see section 420(8) of that Act) to which that Chapter applies or would, apart from section 474 of that Act, apply (see section 471 of that Act), or
  - (b) section 144ZD of this Act (value of underlying subject matter of option altered with a view to obtaining a tax advantage) applies in relation to the option.
- (3) Where this section applies, neither section 144ZA nor the following provisions of section 144 shall apply in relation to the option—
- (a) in subsection (2), the words from “and accordingly” to the end of that subsection, and
  - (b) in subsection (3), the words from “and accordingly” to the end of that subsection;
- but subsection (4) or (5) below shall instead have effect (subject to subsection (6) below).
- (4) If the option binds the grantor to buy—
- (a) the cost of acquisition incurred by the grantor in buying in pursuance of his obligations under the option, and
  - (b) the consideration for the disposal of what is bought by the grantor,
- shall be deemed for the purposes of tax in respect of chargeable gains to be the market value, at the time the option is exercised, of what is bought.
- (5) If the option binds the grantor to sell—
- (a) the consideration for the sale, and
  - (b) the cost to the person exercising the option of acquiring what is sold,
- shall be deemed for the purposes of tax in respect of chargeable gains to be the market value, at the time the option is exercised, of what is sold.
- (6) But if the whole or any part of the underlying subject matter of the option (see subsection (7)) is subject to any right or restriction which is enforceable by the person disposing of the underlying subject matter or a person connected with him—
- (a) the market value of the underlying subject matter shall be determined for the purposes of subsection (4) or (5) above as if the right or restriction did not exist, and
  - (b) to the extent that subsection (6) or (7) of section 18 would apply apart from this paragraph, it shall be disregarded.
- (7) In this section “underlying subject matter”, in relation to an option, means—
- (a) if the option binds the grantor to sell, what falls to be sold on exercise of the option;
  - (b) if the option binds the grantor to buy, what falls to be bought on exercise of the option.

#### Textual Amendments

**F20** Ss. 144ZB-144ZD inserted (with effect in accordance with Sch. 5 para. 6(1) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 5 para. 2](#)



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### **144ZC Section 144ZB: non-commercial exercise of option**

- (1) For the purposes of section 144ZB, the exercise of an option which binds the grantor to buy is non-commercial if the exercise price for the option (see subsection (3)) is less than the open market price (see subsection (4)) of what is bought.
- (2) For the purposes of section 144ZB, the exercise of an option which binds the grantor to sell is non-commercial if the exercise price for the option is greater than the open market price of what is sold.
- (3) In this section “exercise price”, in relation to an option, means the amount or value of the consideration which, under the terms of the option, is—
  - (a) receivable (if the option binds the grantor to buy), or
  - (b) payable (if the option binds the grantor to sell),
 as a result of the exercise of the option (and does not include the amount or value of any consideration for the acquisition of the option (whether directly from the grantor or not)).
- (4) In this section “open market price”, in relation to the underlying subject matter of an option (see section 144ZB(7)), means the price which the underlying subject matter might reasonably be expected to fetch on a sale in the open market at the time the option is exercised; and subsections (5) to (7) below apply for the purposes of this subsection.
- (5) If the whole or any part of the underlying subject matter of the option is subject to any right or restriction which is enforceable by—
  - (a) the person disposing of the underlying subject matter, or
  - (b) a person connected with him,
 the open market price of the underlying subject matter shall be determined as if the right or restriction did not exist.
- (6) Section 272(2) (no reduction in estimated market value on account of assumption that whole of assets are placed on market at one time) shall apply in estimating the open market price of the underlying subject matter of an option as it applies in estimating the market value of any assets.
- (7) Where the underlying subject matter of an option comprises or includes assets to which section 273 applies (unquoted shares and securities), subsection (3) of that section (assumption that relevant information is available) shall apply in determining the open market price of those assets as it applies for the purposes of a determination falling within subsection (1) of that section.
- (8) This section is to be construed as one with section 144ZB.

#### **Textual Amendments**

**F20** Ss. 144ZB-144ZD inserted (with effect in accordance with Sch. 5 para. 6(1) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 5 para. 2](#)

### **144ZD Section 144ZB: alteration of value to obtain tax advantage**

- (1) This section applies in relation to an option if each of the following conditions is satisfied (as to the effect of this section applying, see section 144ZB(2)(b)).



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- (2) Condition 1 is that section 144ZB would, apart from subsection (2)(b) of that section, apply in relation to the option.
- (3) Condition 2 is that, at the time the option is exercised, the open market price (see section 144ZC(4)) of the underlying subject matter of the option (see section 144ZB(7)) differs from the open market price of the underlying subject matter of the option at the time the option was granted.
- (4) Condition 3 is that some or all of that change in the open market price of the underlying subject matter of the option results to any extent, directly or indirectly, from arrangements (see subsection (8)) (“the relevant arrangements”)—
- (a) to which a relevant person is or has been a party, or
  - (b) which include one or more transactions to which a relevant person is or has been a party.
- (5) In subsection (4) above “relevant person” means any of the following—
- (a) the grantor of the option;
  - (b) any person who at any time holds the option;
  - (c) a person connected with one or more of the persons mentioned in paragraph (a) or (b) above.
- (6) Condition 4 is that, if there were to be disregarded so much of that change in the open market price of the underlying subject matter of the option as results to any extent, directly or indirectly, from the relevant arrangements, the exercise of the option would not be non-commercial (see section 144ZC).
- (7) Condition 5 is that (apart from this section) as a result, directly or indirectly, of the relevant arrangements—
- (a) the grantor of the option, or
  - (b) the person exercising the option,
- would obtain or might be expected to obtain an advantage (see subsection (9)) in relation to capital gains tax or corporation tax in respect of chargeable gains directly or indirectly in consequence of, or otherwise in connection with, the exercise of the option.
- (8) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (9) In this section “advantage”, in relation to capital gains tax or corporation tax in respect of chargeable gains, means—
- (a) relief or increased relief from, or repayment or increased repayment of, that tax, or the avoidance or reduction of a charge to that tax or an assessment to that tax or the avoidance of a possible assessment to that tax, or
  - (b) the deferral of any payment of that tax or the advancement of any repayment of that tax.
- (10) This section is to be construed as one with sections 144ZB and 144ZC.]

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#### Textual Amendments

**F20** Ss. 144ZB-144ZD inserted (with effect in accordance with Sch. 5 para. 6(1) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 5 para. 2](#)

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## [<sup>F21</sup>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

**F21** S. 144A inserted (with effect in accordance with s. 96(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 96\(1\)](#)

*Status: Point in time view as at 08/07/2008.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, Chapter III is up to date with all changes known to be in force on or before 18 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. (See end of Document for details)*

#### Modifications etc. (not altering text)

- C6 S. 144A applied (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), ss. 562\(1\), 883\(1\)](#) (with s. 563, Sch. 2)

### 145 Call options: indexation allowance.

- (1) This section applies [<sup>F22</sup>(subject to subsection (1A) below)] where, on a disposal to which section 53 applies, the relevant allowable expenditure includes both—
- the cost of acquiring an option binding the grantor to sell (“the option consideration”); and
  - 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.

[<sup>F23</sup>(1A) In a case where the whole of the expenditure comprised in the option consideration was incurred on or after 1st April 1998, this section applies for the purposes of corporation tax only.]

- (2) For the purpose of computing the indexation allowance (if any) on the disposal referred to in subsection (1) above—
- the option consideration and the sale consideration shall be regarded as separate items of expenditure; and
  - 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.

#### Textual Amendments

- F22** Words in s. 145(1) inserted (with effect in accordance with s. 122(6)(7) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 122\(5\)](#)
- F23** S. 145(1A) inserted (with effect in accordance with s. 122(6)(7) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 122\(5\)](#)

### 146 Options: application of rules as to wasting assets.

- (1) Section 46 shall not apply—
- to a quoted option to subscribe for shares in a company, or
  - to a traded option, or financial option, or
  - 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

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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 [<sup>F24</sup>are listed] on a recognised stock exchange <sup>F25</sup>... .

#### Textual Amendments

**F24** Words in s. 146(4)(b) substituted (with effect in accordance with Sch. 38 para. 11(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 38 para. 11\(1\)](#)

**F25** Words in s. 146(4)(b) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 26 para. 8\(4\)](#), [Sch. 27 Pt. 6\(5\)](#)

#### 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<sup>F26</sup>, exchange or scheme of reconstruction] 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) [<sup>F27</sup>and “scheme of reconstruction” has the same meaning as in section 136].

#### Textual Amendments

**F26** Words in s. 147(1) substituted (with effect in accordance with Sch. 9 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 9 para. 5\(8\)\(a\)](#)

**F27** Words in s. 147(2) inserted (with effect in accordance with Sch. 9 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 9 para. 5\(8\)\(b\)](#)

#### 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.

*Status: Point in time view as at 08/07/2008.*

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- (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).

### <sup>F28</sup>148A Futures and options involving guaranteed returns

- (1) Profits and gains that are chargeable under Chapter 12 of Part 4 of ITTOIA 2005 are not to be brought into account for the purposes of capital gains tax, except where section 148B applies.
- (2) Where—
- (a) losses are sustained by a person from a disposal, and
  - (b) had profits or gains arisen to the person from the disposal, they would be chargeable under that Chapter,
- the losses are not to be brought into account for the purposes of capital gains tax, except where section 148C applies.

#### Textual Amendments

**F28** Ss. 148A-148C inserted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 435](#) (with Sch. 2)

### 148B Deemed disposals at a gain under section 564(4) of ITTOIA 2005

- (1) This section deals with how this Act applies where profits or gains arising to a person from such a disposal as is referred to in section 564(4) of ITTOIA 2005 (“the deemed disposal”) are chargeable to tax under Chapter 12 of Part 4 of that Act.
- (2) Amounts taken into account or allowable as deductions in calculating the profits or gains are not to be excluded from any calculation made for the purposes of this Act as a result of section 37 or 39.
- (3) For the purposes of this Act the amount of the consideration for the acquisition by the person of any asset the person disposes of by the future running to delivery or the exercise of the option is increased by the amount of the profits or gains chargeable under Chapter 12 of Part 4 of ITTOIA 2005.
- (4) Any increase made as a result of subsection (3) is to be disregarded in calculating any indexation allowance.
- (5) For the purposes of this Act the amount of the consideration for the acquisition of any asset acquired by the person by means of the future running to delivery or the exercise of the option is increased by the amount of the profits or gains chargeable under Chapter 12 of Part 4 of ITTOIA 2005.

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- (6) If the deemed disposal is a disposal of an option by the grantor, for the purposes of subsections (3) to (5) any determination—
- (a) whether profits or gains arose to the grantor from that disposal, and
  - (b) of the amount of those profits or gains,
- is to be made as if the deemed disposal and the disposal by which the option was granted were a single transaction.
- (7) Section 565 of ITTOIA 2005 (interpretation of section 564 of that Act) applies for the purposes of this section as it applies for the purposes of section 564 of that Act.

#### Textual Amendments

**F28** Ss. 148A-148C inserted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 435](#) (with Sch. 2)

### 148C Deemed disposals at a loss under section 564(4) of ITTOIA 2005

- (1) This section deals with how this Act applies where a loss sustained by a person from such a disposal as is referred to in section 564(4) of ITTOIA 2005 (“the deemed disposal”) is brought into account for the purposes of [<sup>F29</sup>section 152 of ITA 2007] (losses).
- (2) Amounts taken into account or allowable as deductions in calculating that loss are not to be excluded from any calculation made for the purposes of this Act as a result of section 37 or 39.
- (3) If the deemed disposal is a disposal of an option by the grantor, for the purposes of subsections (4) and (5) any determination—
- (a) whether the grantor sustained a loss from that disposal, and
  - (b) of the amount of that loss,
- is to be made as if the deemed disposal and the disposal by which the option was granted were a single transaction.
- (4) If the loss from the deemed disposal equals or is less than—
- (a) the amount of the consideration for the acquisition of any asset acquired by the person sustaining the loss by means of the future running to delivery or the exercise of the option, or
  - (b) the amount of the consideration for the acquisition by that person of any asset the person disposes of by the future running to delivery or the exercise of the option,
- for the purposes of this Act the amount of that consideration is reduced by the amount of the loss.
- (5) If the loss from the deemed disposal exceeds the amount of that consideration—
- (a) that consideration is reduced to nil, and
  - (b) an amount equal to the excess is treated for the purposes of this Act as a chargeable gain accruing to the person sustaining the loss on the appropriate occasion.

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- (6) In a case where the consideration mentioned in subsection (4)(a) is reduced under subsection (5)(a), the appropriate occasion is the first occasion after the acquisition mentioned in subsection (4)(a) when there is a disposal of the asset in question.
- (7) In a case where the consideration mentioned in subsection (4)(b) is so reduced, the appropriate occasion is the disposal the person sustaining the loss makes by the future running to delivery or the exercise of the option, as the case may be.
- (8) In subsection (6) the reference to a disposal of the asset in question includes a reference to anything that would be such a disposal but for section 116(10) or 127.
- (9) In subsections (6) and (7) the references to a disposal include references to a disposal which, in accordance with this Act, would (apart from subsection (5)(b)) be a disposal on which neither a gain nor a loss accrues.
- (10) Section 565 of ITTOIA 2005 (interpretation of section 564) applies for the purposes of this section as it applies for the purposes of section 564.]

#### Textual Amendments

- F28** Ss. 148A-148C inserted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 435](#) (with [Sch. 2](#))
- F29** Words in s. 148C(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 310](#) (with [Sch. 2](#))

#### 149 Rights to acquire qualifying shares.

- (1) This section applies where on or after 25th July 1991 (the day on which the <sup>M1</sup>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

- M1** [1991 c. 31](#).

#### [<sup>F30</sup>149A][<sup>F31</sup>Employment-related securities options]

- (1) This section applies where—
  - (a) an option is granted on or after 16th March 1993,



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- [<sup>F32</sup>(b) the option is a securities option within the meaning of Chapter 5 of Part 7 of ITEPA 2003 (see section 420(8) of that Act) to which that Chapter applies or would, apart from section 474 of that Act, apply (see section 471 of that Act), and]
- (c) section 17(1) [<sup>F33</sup>of this Act] would (apart from this section) apply for the purposes of calculating the consideration for the grant of the option.
- (2) [<sup>F34</sup>Both the grantor of the option and the person to whom the option is granted] 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.
- <sup>F35</sup>(4) . . . . . ]

#### Textual Amendments

- F30** S. 149A inserted (27.7.1993) by 1993 c. 34, s.104
- F31** S. 149A heading substituted (with effect in accordance with Sch. 5 para. 6(2) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 5 para. 4(4)
- F32** S. 149A(1)(b) substituted (with effect in accordance with Sch. 5 para. 6(2) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 5 para. 4(2)
- F33** Words in s. 149A(1)(c) inserted (with effect in accordance with Sch. 5 para. 6(2) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 5 para. 4(3)
- F34** Words in s. 149A(2) substituted (with effect in accordance with s. 111(6) of the amending Act) by Finance Act 1996 (c. 8), s. 111(3)
- F35** S. 149A(4) repealed (with effect in accordance with s. 111(6) of the amending Act) by Finance Act 1996 (c. 8), s. 111(4), Sch. 41 Pt. V(5)

#### [<sup>F36</sup>149A] **Restricted and convertible employment-related securities**

- (1) Where an individual has acquired an asset consisting of employment-related securities which are—
- restricted securities or a restricted interest in securities, or
  - convertible securities or an interest in convertible securities,
- the consideration for the acquisition shall (subject to section 119A) be taken to be equal to the aggregate of the actual amount or value given for the employment-related securities and any amount that constituted earnings under Chapter 1 of Part 3 of ITEPA 2003 (earnings) in respect of the acquisition.
- (2) Subsection (1) above applies only to the individual making the acquisition and, accordingly, is to be disregarded in calculating the consideration received by the person from whom the employment-related securities are acquired.
- (3) This section has effect in relation to acquisitions on or after the day appointed under paragraph 3(2) of Schedule 22 to the Finance Act 2003.
- (4) In this section “employment-related securities” has the same meaning as in Chapters 1 to 4 of Part 7 of ITEPA 2003 (as substituted by Schedule 22 to the Finance Act 2003).

*Status: Point in time view as at 08/07/2008.*

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- (5) In this section—  
     “restricted interest in securities”, and  
     “restricted securities”,  
 have the same meaning as in Chapter 2 of that Part of ITEPA 2003 (as so substituted).
- (6) In this section “convertible securities” has the same meaning as in Chapter 3 of that Part of ITEPA 2003 (as so substituted).]

#### Textual Amendments

**F36** S. 149AA inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 52\(1\)](#)

#### [<sup>F37</sup>149A] **B**Shares in research institution spin-out companies

- (1) Where an individual has acquired shares (or an interest in shares) in circumstances where section 452(1) and (2)(a) of ITEPA 2003 (shares in research institution spin-out companies: market value on acquisition) apply (and section 149AA does not apply in relation to those shares (or interest in shares)) the consideration for the acquisition shall (subject to section 119A) be taken to be equal to the aggregate of—
- (a) the actual amount or value given for the shares (or interest in shares), and
  - (b) any amount that constituted earnings under Chapter 1 of Part 3 of ITEPA 2003 (earnings) in respect of the acquisition.
- (2) Subsection (1) above applies only to the individual making the acquisition and, accordingly, is to be disregarded in calculating the consideration received by the person from whom the shares (or interest in shares) are (or is) acquired.]

#### Textual Amendments

**F37** S. 149AB inserted (with effect in accordance with s. 22(5) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 22\(3\)](#)

#### [<sup>F38</sup>149B] **E**mployee incentive schemes: conditional interests in shares.

- (1) Where—
- (a) an individual has acquired an interest in any shares or securities which is only conditional,
  - (b) that interest is one which for the purposes of [<sup>F39</sup>Chapter 2 of Part 7 of ITEPA 2003 (conditional interests in shares)] is taken to have been acquired by him as a director or employee of a company, and
  - (c) by virtue of section 17(1)(b) the acquisition of that interest would, apart from this section, be an acquisition for a consideration equal to the market value of the interest,
- section 17 shall not apply for calculating the consideration.
- (2) Instead, the consideration for the acquisition shall be taken (subject to section 120) to be equal to the actual amount or value of the consideration given for that interest as computed in accordance with [<sup>F40</sup>section 429 of ITEPA 2003].

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- (3) This section shall apply in relation only to the individual making the acquisition and, accordingly, shall be disregarded in calculating the consideration received by the person from whom the interest is acquired.
- (4) Expressions used in this section and in [F41Chapter 2 of Part 7 of ITEPA 2003] have the same meanings in this section as in [F42that Chapter].
- [ This section does not apply to acquisitions on or after the day appointed under F43(5) paragraph 3(2) of Schedule 22 to the Finance Act 2003.
- (6) References in this section to ITEPA 2003 are to that Act as originally enacted.]]

#### Textual Amendments

- F38** S. 149B inserted (with effect in accordance with s. 54(6) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 54\(5\)](#)
- F39** Words in s. 149B(1) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 211\(2\)](#) (with [Sch. 7](#))
- F40** Words in s. 149B(2) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 211\(3\)](#) (with [Sch. 7](#))
- F41** Words in s. 149B(4) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 211\(4\)\(a\)](#) (with [Sch. 7](#))
- F42** Words in s. 149B(4) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 211\(4\)\(b\)](#) (with [Sch. 7](#))
- F43** S. 149B(5)(6) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\), Sch. 22 para. 53](#)

#### [F44149C Priority share allocations

Section 17(1) shall not apply to an acquisition of shares if section 542 or 544 of ITEPA 2003 applies in relation to it.]

#### Textual Amendments

- F44** S. 149C inserted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 212](#) (with [Sch. 7](#))

#### 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 M2Finance Act 1983 (“the 1983 Act”) or Chapter II of Part IV of the M3Finance Act 1981 (“the 1981 Act”) and “eligible shares” has the meaning given by section 289(4) of the Taxes Act [F45and 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

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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 [<sup>F46</sup>acquired by an individual] at different times, being shares in respect of which relief has been given and not withdrawn, a disposal relates [<sup>F47</sup>to], 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 <sup>M4</sup>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) [<sup>F48</sup>Sections 104, 105 and 106A do 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 [<sup>F49</sup>shares in respect of which relief has been given and not withdrawn] disposed of by an individual to his or her spouse [<sup>F50</sup>or civil partner] (“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 <sup>F51</sup>... 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.

[<sup>F52</sup>(8A) Subsection (8) above shall not have effect to disapply section 135 or 136 where—

- (a) the new holding consists of new ordinary shares carrying no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future <sup>F53</sup>... right to be redeemed,
- (b) the new shares are issued on or after 29th November 1994 and after the end of the relevant period, and
- (c) the condition in subsection (8B) below is fulfilled.

(8B) The condition is that at some time before the issue of the new shares—

- (a) the company issuing them issued eligible shares, and
- (b) a certificate in relation to those eligible shares was issued by the company for the purposes of subsection (2) of section 306 of the Taxes Act and in accordance with that section.

(8C) In subsection (8A) above—

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- (a) “new holding” shall be construed in accordance with sections 126, 127, 135 and 136;
  - (b) “relevant period” means the period found by applying section 289(12)(a) of the Taxes Act by reference to the company issuing the shares referred to in subsection (8) above and by reference to those shares.]
- [<sup>F54</sup>(8D) Where shares in respect of which relief has been given and not withdrawn are exchanged for other shares in circumstances such that section 304A of the Taxes Act (acquisition of share capital by new company) applies—
- (a) subsection (8) above shall not have effect to disapply section 135; and
  - (b) subsections (2)(b), (3) and (4) of section 304A of the Taxes Act, and subsection (5) of that section so far as relating to section 306(2) of that Act, shall apply for the purposes of this section as they apply for the purposes of Chapter III of Part VII of that Act.]
- (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 [<sup>F55</sup>a way which is] 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.
- [<sup>F56</sup>(12) In this section—
- “ordinary share capital” has the same meaning as in the Taxes Act;
  - “ordinary shares”, in relation to a company, means shares forming part of its ordinary share capital.]

#### Textual Amendments

**F45** Words in s. 150(1) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 29](#)

**F46** Words in s. 150(4)(a) substituted (with effect in accordance with Sch. 13 para. 42(8)(a) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 42\(1\)\(a\)](#)

**F47** Word in s. 150(4)(a) inserted (with effect in accordance with Sch. 13 para. 42(8)(a) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 42\(1\)\(b\)](#)

**Status:** Point in time view as at 08/07/2008.

**Changes to legislation:** Taxation of Chargeable Gains Act 1992, Chapter III is up to date with all changes known to be in force on or before 18 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. (See end of Document for details)

- F48** Words in s. 150(5) substituted (with effect in accordance with Sch. 13 para. 42(8)(a) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 42\(2\)](#)
- F49** Words in s. 150(7) substituted (with effect in accordance with Sch. 13 para. 42(8)(b) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 42\(3\)](#)
- F50** Words in s. 150(7) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), [regs. 1\(1\)](#), [109](#)
- F51** Word in s. 150(8) repealed (with effect in accordance with Sch. 13 para. 42(8)(c) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 42\(4\)](#), [Sch. 27 Pt. III\(14\)](#)
- F52** S. 150(8A)-(8C) inserted (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [s. 69](#)
- F53** Word in s. 150(8A)(a) repealed (with effect in accordance with Sch. 13 para. 42(8)(d) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 42\(5\)](#), [Sch. 27 Pt. III\(14\)](#)
- F54** S. 150(8D) inserted (with effect in accordance with Sch. 13 para. 42(8)(e) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 42\(6\)](#)
- F55** Words in s. 150(10)(a) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 54](#)
- F56** S. 150(12) inserted (with effect in accordance with Sch. 13 para. 42(8)(f) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 42\(7\)](#)

#### Marginal Citations

- M2** 1983 c. 28.  
**M3** 1981 c. 35.  
**M4** 1981 c. 35.

#### [<sup>F57</sup> 150A Enterprise investment scheme.

- (1) For the purpose of determining the gain or loss on any disposal of <sup>F58</sup>... shares by an individual where—
- an amount of relief is attributable to the shares, and
  - 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 <sup>F59</sup>... shares by an individual after the end of the period referred to in section 312(1A)(a) of the Taxes Act [<sup>F60</sup>or section 159(2) of ITA 2007] 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.

[ Notwithstanding anything in section 16(2), subsection (2) above shall not apply to a <sup>F61</sup>(2A) disposal on which a loss accrues.]

- (3) Where—
- <sup>F62</sup>(a) an individual's liability to income tax has been reduced (or treated by virtue of section 304 of the Taxes Act or section 245 of ITA 2007 (spouses and civil partners) as reduced) for any year of assessment under section 289A of the Taxes Act or section 158 of ITA 2007 in respect of any issue of shares,
  - (b) the amount of the reduction (“A”) is less than the amount (“B”) which is equal to tax at the savings rate for that year on the amount subscribed for the issue, and
  - (c) A is not found under section 289A(2)(b) of the Taxes Act or (as the case may require) is not within paragraph (b) solely by virtue of section 29(2) and (3) of ITA 2007,]

*Status: Point in time view as at 08/07/2008.*

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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—

AB

(4) Any question as to—

- (a) which of any shares [<sup>F63</sup>acquired by an individual at different times a disposal relates to], 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 [<sup>F64</sup>or as provided by section 246 of ITA 2007]; and Chapter I of this Part shall have effect subject to the foregoing provisions of this subsection.

(5) [<sup>F65</sup>Sections 104, 105 and 106A] shall not apply to shares to which relief is attributable.

[<sup>F66</sup>(6) Where an individual holds shares which form part of the ordinary share capital of a company and include shares of more than one of the following kinds, namely—

- (a) shares to which relief is attributable and to which subsection (6A) below applies,
- (b) shares to which relief is attributable and to which that subsection does not apply, and
- (c) shares to which relief is not attributable,

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 shares falling within paragraph (a), (b) or (c) above (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).

(6A) This subsection applies to any shares if—

- (a) expenditure on the shares has been set under Schedule 5B to this Act against the whole or part of any gain; and
- (b) in relation to the shares there has been no chargeable event for the purposes of that Schedule.]

(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.

[ Subsection (8) above shall not have effect to disapply section 135 or 136 where—

- <sup>F67</sup>(8A) (a) the new holding consists of new ordinary shares carrying no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future <sup>F68</sup>... right to be redeemed,
- (b) the new shares are issued on or after 29th November 1994 and after the end of the relevant period, and



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(c) the condition in subsection (8B) below is satisfied.

(8B) The condition is that at some time before the issue of the new shares—

- (a) the company issuing them issued eligible shares, and
- (b) a certificate in relation to those eligible shares was issued by the company for the purposes of [F69]section 306(2) of the Taxes Act or section 203(1) of ITA 2007 and in accordance with section 306 of the Taxes Act or sections 204 and 205 of ITA 2007].

(8C) In subsection (8A) above—

- (a) “new holding” shall be construed in accordance with sections 126, 127, 135 and 136;
- (b) “relevant period” means the period found by applying section 312(1A)(a) of the Taxes Act [F70]or section 159(2) of ITA 2007] by reference to the company issuing the shares referred to in subsection (8) above and by reference to those shares.]

[ Where shares to which relief is attributable are exchanged for other shares in F71(8D) circumstances such that section 304A of the Taxes Act [F72]or section 247 of ITA 2007] (acquisition of share capital by new company) applies—

- (a) subsection (8) above shall not have effect to disapply section 135; and
- [F73](b) the following—
  - (i) subsections (2)(b), (3) and (4) of section 304A of the Taxes Act and subsection (5) of that section so far as relating to section 306(2) of that Act, or
  - (ii) sections 247(3)(b), 248(2)(a) and 249 of ITA 2007,
 shall apply for the purposes of this section as they apply for the purposes of Chapter 3 of Part 7 of the Taxes Act or Part 5 of ITA 2007.]]

(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 [F74]a way which is] 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.

[ In this section—

- F75(10A) “ordinary share capital” has [F76]the meaning given in section 989 of ITA 2007];
- “ordinary shares”, in relation to a company, means shares forming part of its ordinary share capital.]

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(11) Chapter III of Part VII of the Taxes Act [<sup>F77</sup>or Part 5 of ITA 2007] (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 [<sup>F78</sup>or means shares that meet the requirements of section 173(2) of ITA 2007].

(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.

[ References in this section to Part 5 of ITA 2007 or any provision of that Part are to a <sup>F79</sup>(13) Part or provision that applies only in relation to shares issued after 5 April 2007. ]

### Textual Amendments

- F57** S. 150A inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 30](#)
- F58** Word in s. 150A(1) repealed (with effect in accordance with Sch. 13 para. 24(8)(a) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(1\)](#), [Sch. 27 Pt. III\(14\)](#)
- F59** Word in s. 150A(2) repealed (with effect in accordance with Sch. 13 para. 24(8)(a) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(1\)](#), [Sch. 27 Pt. III\(14\)](#)
- F60** Words in s. 150A(2) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(2\)](#) (with Sch. 2)
- F61** S. 150A(2A) inserted (with application in accordance with Sch. 13 para. 2(1) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 13 para. 2\(2\)](#)
- F62** Ss. 150A(3)(a)-(c) substituted for s. 150A(3)(a)(aa)(b) (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(3\)](#) (with Sch. 2)
- F63** Words in s. 150A(4)(a) substituted (with effect in accordance with Sch. 13 para. 24(8)(a) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(2\)](#)
- F64** Words in s. 150A(4) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(4\)](#) (with Sch. 2)
- F65** Words in s. 150A(5) substituted (with effect in accordance with Sch. 13 para. 24(8)(a) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(3\)](#)
- F66** S. 150A(6)(6A) substituted for s. 150A(6) (with effect in accordance with Sch. 13 para. 24(8)(b) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(4\)](#)
- F67** Ss. 150A(8A)-(8C) inserted (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [Sch. 13 para. 2\(4\)](#)
- F68** Word in s. 150A(8A)(a) repealed (with effect in accordance with Sch. 13 para. 24(8)(c) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(5\)](#), [Sch. 27 Pt. III\(14\)](#)
- F69** Words in s. 150A(8B)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(5\)](#) (with Sch. 2)
- F70** Words in s. 150A(8C) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(6\)](#) (with Sch. 2)
- F71** S. 150A(8D) inserted (with effect in accordance with Sch. 13 para. 24(8)(d) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(6\)](#)
- F72** Words in s. 150A(8D) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(7\)\(a\)](#) (with Sch. 2)
- F73** S. 150A(8D)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(7\)\(b\)](#) (with Sch. 2)
- F74** Words in s. 150A(9)(a) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 54](#)
- F75** S. 150A(10A) inserted (with effect in accordance with Sch. 13 para. 24(8)(e) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(7\)](#)
- F76** Words in s. 150A(10A) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(8\)](#) (with Sch. 2)

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- F77** Words in s. 150A(11) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 311(9)(a)** (with [Sch. 2](#))
- F78** Words in s. 150A(11) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 311(9)(b)** (with [Sch. 2](#))
- F79** S. 150A(13) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 311(10)** (with [Sch. 2](#))

### **[<sup>F80</sup>150B Enterprise investment scheme: reduction of relief.**

- (1) This section has effect where section 150A(2) applies on a disposal of <sup>F81</sup>... shares, and before the disposal but on or after 29th November 1994—
- value is received in circumstances where relief attributable to the shares is reduced by an amount under section 300(1A)(a) of the Taxes Act [<sup>F82</sup>or section 213(2)(a) of ITA 2007],
  - there is a repayment, redemption, repurchase or payment in circumstances where relief attributable to the shares is reduced by an amount under section 303(1A)(a) of [<sup>F83</sup>the Taxes Act or section 224(2)(a) of ITA 2007], or
  - paragraphs (a) and (b) above apply.
- (2) If section 150A(2) applies on the disposal but section 150A(3) does not, section 150A(2) shall apply only to so much of the gain as remains after deducting so much of it as is found by multiplying it by the fraction—
- whose numerator is equal to the amount by which the relief attributable to the shares is reduced as mentioned in subsection (1) above, and
  - whose denominator is equal to the amount of the relief attributable to the shares.
- (3) If section 150A(2) and (3) apply on the disposal, section 150A(2) shall apply only to so much of the gain as is found by—
- taking the part of the gain found under section 150A(3), and
  - deducting from that part so much of it as is found by multiplying it by the fraction mentioned in subsection (2) above.
- (4) Where the relief attributable to the shares is reduced as mentioned in subsection (1) above by more than one amount, the numerator mentioned in subsection (2) above shall be taken to be equal to the aggregate of the amounts.
- (5) The denominator mentioned in subsection (2) above shall be found without regard to any reduction mentioned in subsection (1) above.
- (6) [<sup>F84</sup>Subsections (11) to (13)] of section 150A apply for the purposes of this section as they apply for the purposes of that section.]

#### **Textual Amendments**

- F80** S. 150B inserted (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), **Sch. 13 para. 3**
- F81** Word in s. 150B(1) repealed (with effect in accordance with Sch. 13 para. 25(2) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 25\(1\)](#), **Sch. 27 Pt. III(14)**
- F82** Words in s. 150B(1)(a) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 312(2)(a)** (with [Sch. 2](#))
- F83** Words in s. 150B(1)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 312(2)(b)** (with [Sch. 2](#))

*Status: Point in time view as at 08/07/2008.*

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**F84** Words in s. 150B(6) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 312\(3\)](#) (with [Sch. 2](#))

### **[<sup>F85</sup>150C Enterprise investment scheme: re-investment.**

Schedule 5B to this Act (which provides relief in respect of re-investment under the enterprise investment scheme) shall have effect.]

#### **Textual Amendments**

**F85** S. 150C inserted (with effect in accordance with Sch. 13 para. 4(4) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 13 para. 4\(1\)](#)

### **[<sup>F86</sup>150D Enterprise investment scheme: application of taper relief**

Schedule 5BA to this Act (which provides for the application of taper relief in cases where relief under Schedule 5B, or [<sup>F87</sup>relief under] Chapter III of Part VII of the Taxes Act [<sup>F87</sup>or Part 5 of ITA 2007,], applies) shall have effect.]

#### **Textual Amendments**

**F86** S. 150D inserted (27.7.1999) by [Finance Act 1999 \(c. 16\)](#), s. 72(1)

**F87** Words in s. 150D inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 313](#) (with [Sch. 2](#))

## **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.
- [<sup>F88</sup>(2) The provisions of Chapter 3 of Part 6 of ITTOIA 2005 (income from individual investment plans), except section 694(1) and (2), shall apply in relation to regulations made under subsection (1) as they apply to regulations made under section 694(1), 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.
- [<sup>F89</sup>(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.]

*Status: Point in time view as at 08/07/2008.*

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### Textual Amendments

**F88** S. 151(2) substituted for s. 151(2)(2A) (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 436](#) (with [Sch. 2](#))

**F89** S. 151(4) inserted (27.7.1993) by [1993 c. 34, s.85](#)

### Modifications etc. (not altering text)

**C7** S. 151 extended (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 123\(7\)\(b\)](#)

## [<sup>F90</sup> 151A Venture capital trusts: reliefs.

- (1) A gain or loss accruing to an individual on a qualifying disposal of any ordinary shares in a company which—
- was a venture capital trust at the time when he acquired the shares, and
  - is still such a trust at the time of the disposal,
- shall not be a chargeable gain or, as the case may be, an allowable loss.

- (2) For the purposes of this section a disposal of shares is a qualifying disposal in so far as—
- it is made by an individual who has attained the age of eighteen years;
  - the shares disposed of were not acquired in excess of the permitted maximum for any year of assessment; and
  - that individual acquired those shares for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.

<sup>F91</sup>(3) . . . . .

- (4) In determining for the purposes of this section whether a disposal by any person of shares in a venture capital trust relates to shares acquired in excess of the permitted maximum for any year of assessment, it shall be assumed (subject to subsection (5) below)—
- as between shares acquired by the same person on different days, that those acquired on an earlier day are disposed of by that person before those acquired on a later day; and
  - as between shares acquired by the same person on the same day, that those acquired in excess of the permitted maximum are disposed of by that person before he disposes of any other shares acquired on that day.
- (5) It shall be assumed for the purposes of subsection (1) above that a person who disposes of shares in a venture capital trust disposes of shares acquired at a time when it was not such a trust before he disposes of any other shares in that trust.
- (6) References in this section to shares in a venture capital trust acquired in excess of the permitted maximum for any year of assessment shall be construed [<sup>F92</sup>as references to shares not acquired within the limit in section 709(4) of ITTOIA 2005; and the question whether shares are acquired within that limit shall be determined as it is for the purposes of Chapter 5 of Part 6 of that Act].
- (7) In this section and section 151B “ordinary shares”, in relation to a company, means any shares forming part of the company’s ordinary share capital (within [<sup>F93</sup>the meaning given in section 989 of ITA 2007]).

*Status: Point in time view as at 08/07/2008.*

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### Textual Amendments

- F90** Ss. 151A, 151B inserted (with effect in accordance with s. 72(8) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 72\(3\)](#)
- F91** S. 151A(3) repealed (with effect in accordance with Sch. 19 para. 7 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 19 para. 4, Sch. 42 Pt. 2\(13\)](#)
- F92** Words in s. 151A(6) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 437 \(with Sch. 2\)](#)
- F93** Words in s. 151A(7) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 314 \(with Sch. 2\)](#)

### Modifications etc. (not altering text)

- C8** S. 151A modified (with effect in accordance with reg. 1(2)(a) of the amending S.I.) by [The Venture Capital Trust \(Winding up and Mergers\) \(Tax\) Regulations 2004 \(S.I. 2004/2199\), regs. 1\(1\), 6\(1\), 13\(4\)](#)
- C9** S. 151A(4)(5) applied by [Income and Corporation Taxes Act 1988 \(c. 1\), Sch. 15B para. 8\(6\)\(c\)](#) (as inserted (1.5.1995) by [Finance Act 1995 \(c. 4\), s. 71\(2\), Sch. 15](#))

## 151B Venture capital trusts: supplementary.

- (1) Sections 104, 105 and [<sup>F94</sup>106A] shall not apply to any shares in a venture capital trust which are eligible for relief under section 151A(1).
- (2) Subject to the following provisions of this section, where—
- an individual holds any ordinary shares in a venture capital trust,
  - some of those shares fall within one of the paragraphs of subsection (3) below, and
  - others of those shares fall within at least one other of those paragraphs,
- then, if there is within the meaning of section 126 a reorganisation affecting those shares, section 127 shall apply separately in relation to the shares (if any) falling within each of the paragraphs of that subsection (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).
- (3) The kinds of shares referred to in subsection (2) above are—
- any shares in a venture capital trust which are eligible for relief under section 151A(1) and by reference to which any person has [<sup>F95</sup>obtained] or is entitled to claim relief under [<sup>F95</sup>Chapter 2 of Part 6 of ITA 2007];
  - any shares in a venture capital trust which are eligible for relief under section 151A(1) but by reference to which no person has [<sup>F96</sup>obtained], or is entitled to claim, any relief under [<sup>F96</sup>that Chapter of that Part];
  - any shares in a venture capital trust by reference to which any person has [<sup>F97</sup>obtained], or is entitled to claim, any relief under [<sup>F97</sup>that Chapter of that Part] but which are not shares that are eligible for relief under section 151A(1); and
  - any shares in a venture capital trust that do not fall within any of paragraphs (a) to (c) above.
- (4) Where—
- an individual holds ordinary shares in a company (“the existing holding”),
  - 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



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- (c) immediately following the reorganisation, the shares or the allotted holding are shares falling within any of paragraphs (a) to (c) of subsection (3) above, sections 127 to 130 shall not apply in relation to the existing holding.
- (5) Sections 135 and 136 shall not apply where—
- (a) the exchanged holding consists of shares falling within paragraph (a) or (b) of subsection (3) above; and
  - (b) that for which the exchanged holding is or is treated as exchanged does not consist of ordinary shares in a venture capital trust.
- (6) Where—
- (a) the approval of any company as a venture capital trust is withdrawn, and
  - (b) the withdrawal of the approval is not one to which [F98 section 281(3) of ITA 2007] applies,
- any person who at the time when the withdrawal takes effect is holding shares in that company which (apart from the withdrawal) would be eligible for relief under section 151A(1) shall be deemed for the purposes of this Act, at that time, to have disposed of and immediately re-acquired those shares for a consideration equal to their market value at that time.
- (7) The disposal that is deemed to take place by virtue of subsection (6) above shall be deemed for the purposes of section 151A to take place while the company is still a venture capital trust; but, for the purpose of applying sections 104, 105 and [F99 106A] to the shares that are deemed to be re-acquired, it shall be assumed that the re-acquisition for which that subsection provides takes place immediately after the company ceases to be such a trust.
- (8) For the purposes of this section—
- (a) shares are eligible for relief under section 151A(1) at any time when they are held by an individual whose disposal of the shares at that time would (on the assumption, where it is not the case, that the individual attained the age of eighteen years before that time) be a disposal to which section 151A(1) would apply; and
  - (b) shares shall not, in relation to any time, be treated as shares by reference to which relief has been [F100 obtained] under [F100 Chapter 2 of Part 6 of ITA 2007] if that time falls after—
    - (i) any relief given by reference to those shares has been reduced or withdrawn,
    - (ii) any chargeable event (within the meaning of Schedule 5C) has occurred in relation to those shares, or
    - (iii) the death of a person who held those shares immediately before his death;
- and
- [F101(c) a reference to the exchanged holding is, in relation to section 135 or 136, to the shares in the company referred to in that section as company A.]]

#### Textual Amendments

**F90** Ss. 151A, 151B inserted (with effect in accordance with s. 72(8) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 72\(3\)](#)



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- F94** Word in s. 151B(1) substituted (with effect in accordance with s. 124(7) of the amending Act) by Finance Act 1998 (c. 36), s. 124(6)
- F95** Words in s. 151B(3)(a) substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 315(2)(a) (with Sch. 2)
- F96** Words in s. 151B(3)(b) substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 315(2)(b) (with Sch. 2)
- F97** Words in s. 151B(3)(c) substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 315(2)(b) (with Sch. 2)
- F98** Words in s. 151B(6)(b) substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 315(3) (with Sch. 2)
- F99** Word in s. 151B(7) substituted (with effect in accordance with s. 124(7) of the amending Act) by Finance Act 1998 (c. 36), s. 124(6)
- F100** Words in s. 151B(8)(b) substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 315(4) (with Sch. 2)
- F101** S. 151B(8)(c) substituted (with effect in accordance with Sch. 9 paras. 7, 8 of the amending Act) by Finance Act 2002 (c. 23), Sch. 9 para. 5(9)

**Modifications etc. (not altering text)**

- C10** S. 151B modified (with effect in accordance with reg. 1(2)(a) of the amending S.I.) by The Venture Capital Trust (Winding up and Mergers) (Tax) Regulations 2004 (S.I. 2004/2199), regs. 1(1), 6(1), 13(4)

**[<sup>F102</sup>151B(1) CTR: identification of securities or shares on a disposal**

- (1) This section applies for the purpose of identifying the securities or shares disposed of in any case where—
- (a) an individual or company (“the investor”) disposes of part of a holding of securities or shares (“the holding”), and
  - (b) the holding includes securities or shares to which CTR is attributable in respect of one or more years of assessment or accounting periods that have been held by the investor continuously from the time they were issued until the disposal.
- (2) Any disposal by the investor of securities or shares included in the holding which have been acquired by the investor on different days is treated as relating to those acquired on an earlier day rather than to those acquired on a later day.
- (3) If there is a disposal by the investor of securities or shares included in the holding which have been acquired by the investor on the same day, any of those securities or shares—
- (a) to which CTR is attributable, and
  - (b) which have been held by the investor continuously from the time they were issued until the time of disposal,
- are treated as disposed of after any other securities or shares included in the holding which were acquired by the investor on that day.
- (4) For the purposes of this section a holding of securities is any number of securities of a company which—
- (a) carry the same rights,
  - (b) were issued under the same terms, and
  - (c) are held by the investor in the same capacity.

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It does not matter for this purpose that the number of the securities grows or diminishes as securities carrying those rights and issued under those terms are acquired or disposed of.

- (5) For the purposes of this section a holding of shares is any number of shares in a company which—
- (a) are of the same class, and
  - (b) are held by the investor in the same capacity.

It does not matter for this purpose that the number of the shares grows or diminishes as shares of that class are acquired or disposed of.

- (6) Chapter 1 of Part 4 (share pooling, etc) has effect subject to this section.
- (7) Sections 104 to 107 (which make provision for the identification of securities and shares on a disposal) do not apply to securities or shares to which CITR is attributable.
- (8) In a case to which section 127 (equation of original shares and new holding) applies, shares included in the new holding are treated for the purposes of subsections (2) and (3) as acquired when the original shares were acquired.
- (9) In subsection (8)—
- (a) the reference to section 127 includes a reference to that section as it is applied by virtue of any enactment relating to chargeable gains, and
  - (b) “original shares” and “new holding” have the same meaning as in section 127, or (as the case may be) that section as applied by virtue of the enactment in question.
- (10) In this section and sections 151BB and 151BC—
- (a) if the investor is an individual—
    - (i) “CITR” has the meaning given by section 333 of ITA 2007,
    - (ii) references to CITR being attributable to securities, shares or debentures are to be read in accordance with section 357 of that Act, and
    - (iii) references to securities, shares or debentures having been held by the investor continuously are to be read in accordance with section 380 of that Act,
  - (b) if the investor is a company—
    - (i) “CITR” means relief under Part 5 of Schedule 16 to the Finance Act 2002,
    - (ii) references to CITR being so attributable are to be read in accordance with paragraph 26 of that Schedule, and
    - (iii) references to securities, shares or debentures having been held by the investor continuously are to be read in accordance with paragraph 49 of that Schedule.]

#### Textual Amendments

**F102** S. 151BA inserted (6.4.2007) by *Income Tax Act 2007* (c. 3), s. 1034(1), **Sch. 1 para. 316** (with **Sch. 2**)

*Status: Point in time view as at 08/07/2008.*

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### [<sup>F103</sup>151BB]TR: rights issues etc

(1) If—

- (a) an individual or company (“the investor”) holds shares in the CDFI which are of the same class and held in the same capacity (“the existing holding”),
- (b) there is a reorganisation affecting the existing holding as a result of an allotment which—
  - (i) falls within section 126(2)(a) (an allotment of shares or debentures in respect of and in proportion to an original holding), and
  - (ii) is not an allotment of corresponding bonus shares,
- (c) immediately after the reorganisation, CITR is attributable to the shares included in the existing holding or the shares or debentures allotted in respect of those shares, in respect of one or more years of assessment or accounting periods, and
- (d) if CITR is attributable to the shares included in the existing holding at that time, those shares have been held by the investor continuously from the time they were issued until the reorganisation,

sections 127 to 130 (treatment of share capital following a reorganisation) do not apply in relation to the existing holding.

(2) Section 116(10) (reorganisations, conversions and reconstructions) does not apply in any case where the old asset consists of shares held (in the same capacity) by the investor—

- (a) that have been held by the investor continuously from the time they were issued until the relevant transaction, and
- (b) to which CITR is attributable immediately before that transaction.

In this subsection “old asset” and “the relevant transaction” have the meaning given by section 116.

(3) For the purposes of subsection (1)—

“corresponding bonus shares” means bonus shares that—

- (a) are issued in respect of shares included in the existing holding, and
- (b) are in the same company, are of the same class, and carry the same rights as, those shares,

“reorganisation” has the meaning given in section 126.

(4) The following provisions of this Act have effect subject to this section—

section 116 (reorganisations, conversions and reconstructions);

Chapter 2 of Part 4 (reorganisation of share capital, conversion of securities etc).

(5) In this section “the CDFI” is to be read—

- (a) if the investor is an individual, in accordance with section 334(2) of ITA 2007,
- (b) if the investor is a company, in accordance with paragraph 1(2) of Schedule 16 to the Finance Act 2002.]

#### Textual Amendments

**F103** S. 151BB inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 317](#) (with [Sch. 2](#))

*Status: Point in time view as at 08/07/2008.*

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## [<sup>F104</sup>151BC] **CITR: company reconstructions etc**

- (1) If—
- (a) an individual or company (“the investor”) holds shares in or debentures of a company (“company A”),
  - (b) there is a reconstruction or amalgamation affecting that holding (“the existing holding”),
  - (c) immediately before the reconstruction or amalgamation, CITR is attributable to the shares or debentures included in the existing holding in respect of one or more years of assessment or accounting periods, and
  - (d) the shares or debentures included in the existing holding have been held by the investor continuously from the time they were issued until the reconstruction or amalgamation,
- sections 135 and 136 (share exchanges and company reconstructions) do not apply in respect of the existing holding.
- (2) Subsection (1)(a) applies only if the shares or debentures are held by the investor in the same capacity.
- (3) For the purposes of subsection (1) a “reconstruction or amalgamation” means an issue by a company of shares in or debentures of that company in exchange for or in respect of shares in or debentures of company A.
- (4) The following provisions of this Act have effect subject to this section—  
section 116 (reorganisations, conversions and reconstructions),  
Chapter 2 of Part 4 (reorganisation of share capital, conversion of securities etc).
- (5) The investor is treated as disposing of any securities or shares which but for subsection (1) the investor—
- (a) would be treated as exchanging for other securities or shares by virtue of section 136, or
  - (b) would be so treated but for section 137(1) (which restricts section 136 to genuine reconstructions).]

### Textual Amendments

**F104** S. 151BC inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 318](#) (with [Sch. 2](#))

## [<sup>F105</sup>151C] **Strips: manipulation of price: associated payment giving rise to loss**

- (1) This section applies if—
- (a) as a result of any scheme or arrangement which has an unallowable purpose, the circumstances are, or might have been, as mentioned in paragraph (a), (b) or (c) of section 449(2) of ITTOIA 2005,
  - (b) under the scheme or arrangement, a payment falls to be made otherwise than in respect of the acquisition or disposal of a strip, and
  - (c) as a result of that payment or the circumstances in which it is made, a loss accrues to any person.
- (2) The loss shall not be an allowable loss.

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- (3) For the purposes of this section a scheme or arrangement has an unallowable purpose if the main benefit, or one of the main benefits that might have been expected to result from, or from any provision of, the scheme or arrangement (apart from section 449 of ITTOIA 2005 and this section) is—
- (a) the obtaining of a tax advantage by any person, or
  - (b) the accrual to any person of an allowable loss.
- (4) The reference in subsection (1)(b) to the acquisition or disposal of a strip shall be construed as if it were in Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) (see, in particular, sections 437 and 445 of that Act for the meaning of “disposal” and “acquisition” and section 444 of that Act for the meaning of “strip”).
- (5) In subsection (3)(a) “tax advantage” has the meaning given by [<sup>F106</sup>section 840ZA] of the Taxes Act.
- (6) This section applies to losses accruing on or after 17th March 2004.]

#### Textual Amendments

**F105** S. 151C inserted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 438](#) (with Sch. 2)

**F106** Words in s. 151C(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 319](#) (with Sch. 2)

#### [<sup>F107</sup>151D] **Corporate strips: manipulation of price: associated payment giving rise to loss**

- (1) This section applies if—
- (a) as a result of any scheme or arrangement which has an unallowable purpose, the circumstances are, or might have been, as mentioned in paragraph (a), (b) or (c) of section 452G(2) of ITTOIA 2005,
  - (b) under the scheme or arrangement, a payment falls to be made otherwise than in respect of the acquisition or disposal of a corporate strip, and
  - (c) as a result of that payment or the circumstances in which it is made, a loss accrues to any person.
- (2) The loss shall not be an allowable loss.
- (3) For the purposes of this section a scheme or arrangement has an unallowable purpose if the main benefit, or one of the main benefits, that might have been expected to result from, or from any provision of, the scheme or arrangement (apart from section 452G of ITTOIA 2005 and this section) is—
- (a) the obtaining of a tax advantage by any person, or
  - (b) the accrual to any person of an allowable loss.
- (4) The reference in subsection (1)(b) above to the acquisition or disposal of a corporate strip shall be construed as if it were in Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) (see, in particular, sections 437 and 452F of that Act for the meaning of “disposal” and section 452E of that Act for the meaning of “corporate strip”).

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- (5) In subsection (3)(a) above “tax advantage” has the meaning given by <sup>[F108]</sup>section 840ZA] of the Taxes Act.
- (6) This section applies to losses accruing on or after 6th April 2005.]

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**Textual Amendments**

**F107** S. 151D inserted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 8**

**F108** Words in s. 151D(5) substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 320** (with **Sch. 2**)

**Status:**

Point in time view as at 08/07/2008.

**Changes to legislation:**

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