Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VI

COMPANIES, OIL, INSURANCE ETC.

CHAPTER I

COMPANIES

Groups of companies

170 Interpretation of sections 171 to 181.

(1) This section has effect for the interpretation of sections 171 to 181 except in so far as the context otherwise requires, and in those sections—

(a) "profits" means income and chargeable gains, and

(b) "trade" includes "vocation", and includes also an office or employment.

Until 6th April 1993 paragraph (b) shall have effect with the addition at the end of the words "or the occupation of woodlands in any context in which the expression is applied to that in the Income Tax Acts".

(2) Except as otherwise provided—

F1(a) . . . . . .

(b) subsections (3) to (6) below apply to determine whether companies form a group and, where they do, which is the principal company of the group;

(c) in applying the definition of "75 per cent. subsidiary" in section 838 of the Taxes Act any share capital of a registered industrial and provident society shall be treated as ordinary share capital; and

(d) "group" and "subsidiary" shall be construed with any necessary modifications where applied to a company incorporated under the law of a country outside the United Kingdom.

(3) Subject to subsections (4) to (6) below—

(a) a company (referred to below and in sections 171 to 181 as the "principal company of the group") and all its 75 per cent. subsidiaries form a group and, if any of those subsidiaries have 75 per cent. subsidiaries, the group includes them and their 75 per cent. subsidiaries, and so on, but

(b) a group does not include any company (other than the principal company of the group) that is not an effective 51 per cent. subsidiary of the principal company of the group.

(4) A company cannot be the principal company of a group if it is itself a 75 per cent. subsidiary of another company.

(5) Where a company ("the subsidiary") is a 75 per cent. subsidiary of another company but those companies are prevented from being members of the same group by subsection (3)(b) above, the subsidiary may, where the requirements of subsection (3) above are satisfied, itself be the principal company of another group notwithstanding subsection (4) above unless this subsection enables a further company to be the principal company of a group of which the subsidiary would be a member.

(6) A company cannot be a member of more than one group; but where, apart from this subsection, a company would be a member of 2 or more groups (the principal company of each group being referred to below as the "head of a group"), it is a member only of that group, if any, of which it would be a member under one of the following tests (applying earlier tests in preference to later tests)—

(a) it is a member of the group it would be a member of if, in applying subsection (3)(b) above, there were left out of account any amount to which a head of a group is or would be beneficially entitled of any profits available for distribution to equity holders of a head of another group or of any assets of a head of another group available for distribution to its equity holders on a winding-up,

(b) it is a member of the group the head of which is beneficially entitled to a percentage of profits available for distribution to equity holders of the company that is greater than the percentage of those profits to which any other head of a group is so entitled,

(c) it is a member of the group the head of which would be beneficially entitled to a percentage of any assets of the company available for distribution to its equity holders on a winding-up that is greater than the percentage of those assets to which any other head of a group would be so entitled,

(d) it is a member of the group the head of which owns directly or indirectly a percentage of the company's ordinary share capital that is greater than the percentage of that capital owned directly or indirectly by any other head of a group (interpreting this paragraph as if it were included in section 838(1)(a) of the Taxes Act).

(7) For the purposes of this section and sections 171 to 181, a company ("the subsidiary") is an effective 51 per cent. subsidiary of another company ("the parent") at any time if and only if—

(a) the parent is beneficially entitled to more than 50 per cent. of any profits available for distribution to equity holders of the subsidiary; and

(b) the parent would be beneficially entitled to more than 50 per cent. of any assets of the subsidiary available for distribution to its equity holders on a winding-up.

(8) Schedule 18 to the Taxes Act (group relief: equity holders and profits or assets available for distribution) shall apply for the purposes of subsections (6) and (7) above as if the references to subsection (7) [F2]... of section 413 of that Act were references to subsections (6) and (7) above and as if, in paragraph 1(4), the words from "but" to the end and paragraphs 5(3) **[**[F3]and 5B to 5E**]** and 7(1)(b) were omitted.

(9) For the purposes of this section and sections 171 to 181, references to a company apply only to—

(a) a company within the meaning of the [M1]Companies Act 1985 or the corresponding enactment in Northern Ireland, and

(b) a company **[**[F4](other than a limited liability partnership)**]** which is constituted under any other Act or a Royal Charter or letters patent or [F5]... is formed under the law of a country or territory outside the United Kingdom, and

(c) a registered industrial and provident society within the meaning of section 486 of the Taxes Act; and

[[F6](cc) an incorporated friendly society within the meaning of the Friendly Societies Act 1992; and**]**

(d) a building society.

(10) For the purposes of this section and sections 171 to 181, a group remains the same group so long as the same company remains the principal company of the group, and if at any time the principal company of a group becomes a member of another group, the first group and the other group shall be regarded as the same, and the question whether or not a company has ceased to be a member of a group shall be determined accordingly.

[[F7](10A) Where the principal company of a group (Group 1)—

(a) becomes an SE by reason of being the acquiring company in the formation of an SE by merger by acquisition (in accordance with Articles 2(1), 17(2)(a) and 29(1) of Council Regulation (EC) 2157/2001 on the Statute for a European Company (Societas Europaea)),

(b) becomes a subsidiary of a holding SE (formed in accordance with Article 2(2) of that Regulation), or

(c) is transformed into an SE (in accordance with Article 2(4) of that Regulation),

Group 1 and any group of which the SE is a member on formation shall be regarded as the same; and the question whether or not a company has ceased to be a member of a group shall be determined accordingly.**]**

(11) For the purposes of this section and sections 171 to 181, the passing of a resolution or the making of an order, or any other act, for the winding-up of a member of a group of companies shall not be regarded as the occasion of that or any other company ceasing to be a member of the group.

(12) Sections 171 to 181, except in so far as they relate to recovery of tax, shall also have effect in relation to bodies from time to time established by or under any enactment for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control as if they were companies within the meaning of those sections, and as if any such bodies charged with related functions (and in particular the Boards and Holding Company established under the [M2]Transport Act 1962 and the new authorities within the meaning of the [M3]Transport Act 1968 established under that Act of 1968) and subsidiaries of any of them formed a group, and as if also any 2 or

more such bodies charged at different times with the same or related functions were members of a group.

(13) Subsection (12) shall have effect subject to any enactment by virtue of which property, rights, liabilities or activities of one such body fall to be treated for corporation tax as those of another, including in particular any such enactment in Chapter VI of Part XII of the Taxes Act.

(14) Sections 171 to 181, except in so far as they relate to recovery of tax, shall also have effect in relation to the Executive for a designated area within the meaning of section 9(1) of the [M4]Transport Act 1968 as if that Executive were a company within the meaning of those sections.

Textual Amendments

F1 S. 170(2)(a) repealed (with effect in accordance with Sch. 29 para. 1(2), Sch. 40 Pt. II(12) Note 4 of the amending Act) by Finance Act 2000 (c. 17), Sch. 29 para. 1(1)(a), **Sch. 40 Pt. II(12)** (with Sch. 29 para. 46(5))

F2 Words in s. 170(8) repealed (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 40 Pt. II(11)**

F3 Words in s. 170(8) inserted (*retrosp.*) by 1992 c. 48, s. 24, Sch. 6 paras. 5, **10**

F4 Words in s. 170(9)(b) inserted (6.4.2001) by Finance Act 2001 (c. 9), **s. 75(4)**(6) (with Sch. 3)

F5 Words in s. 170(9)(b) repealed (with effect in accordance with Sch. 29 para. 1(2), Sch. 40 Pt. II(12) Note 4 of the amending Act) by Finance Act 2000 (c. 17), Sch. 29 para. 1(1)(b), **Sch. 40 Pt. II(12)** (with Sch. 29 para. 46(5))

F6 S. 170(9)(cc) inserted (with application in accordance with s. 136(4) of the amending Act) by Finance Act 1998 (c. 36), **s. 136(1)**

F7 S. 170(10A) inserted (with effect in accordance with s. 62(2) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **s. 62(1)**

Modifications etc. (not altering text)

C1 S. 170 extended (3.5.1994) by Finance Act 1994 (c. 9), **s. 148(9)**

C2 S. 170 applied (23.3.1995) by The Exchange Gains and Losses (Deferral of Gains and Losses) Regulations 1994 (S.I. 1994/3228), regs. 1(2), **4(1)**

C3 S. 170 applied (29.4.1996) by Finance Act 1996 (c. 8), **Sch. 9 para. 11(5)**

C4 S. 170 applied (with effect in accordance with s. 81(12) of the amending Act) by Finance Act 1999 (c. 16), **s. 81(7)**

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

C6 Ss. 170-181 restricted (12.1.2000) by Greater London Authority Act 1999 (c. 29), **ss. 419(3)**, 425(2); S.I. 1999/3434, art. 2

C7 S. 170 applied (24.7.2002) by Finance Act 2002 (c. 23), **Sch. 26 para. 28(6)**

C8 S. 170 applied (with modifications) (1.8.2004) by Finance Act 2004 (c. 12), **ss. 307(4)**, 319(2) (with s. 314)

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C10 S. 170 modified (6.4.2006) by The Pension Protection Fund (Tax) Regulations 2006 (S.I. 2006/575), regs. 1, **37(1)**

C11 S. 170 applied (with modifications) (E.W.S.) (1.5.2007) by The National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2007 (S.I. 2007/785), regs. 1, **6(4)**

C12 S. 170(3)-(6) applied (with effect in accordance with s. 51(6) of the amending Act) by Finance Act 2004 (c. 12), **s. 51(3)**

C13 S. 170(7)(8) applied (with modifications) (3.1.1995) by The Ports (Northern Ireland) Order 1994 (S.I. 1994/2809 (N.I. 16)), arts. 1(2), **19(12)**

C14 S. 170(7) modified by 1988 c. 1, s. 209(8E) (as inserted (with effect in accordance with s. 87(7)(8) of the amending Act) by Finance Act 1995 (c. 4), **s. 87(3)**)
C15 S. 170(12)-(14) applied (24.7.2002) by Finance Act 2002 (c. 23), **Sch. 29 para. 54(2)**

Marginal Citations
M1 1985 c. 6.
M2 1962 c. 46.
M3 1968 c. 73.
M4 1968 c. 73.

Transactions within groups

171 Transfers within a group: general provisions.

[F8(1) Where—

(a) a company ("company A") disposes of an asset to another company ("company B") at a time when both companies are members of the same group, and

(b) the conditions in subsection (1A) below are met,

company A and company B are treated for the purposes of corporation tax on chargeable gains as if the asset were acquired by company B for a consideration of such amount as would secure that neither a gain nor a loss would accrue to company A on the disposal.

(1A) The conditions referred to in subsection (1)(b) above are—

(a) that company A is resident in the United Kingdom at the time of the disposal, or the asset is a chargeable asset in relation to that company immediately before that time, and

(b) that company B is resident in the United Kingdom at the time of the disposal, or the asset is a chargeable asset in relation to that company immediately after that time.

For this purpose an asset is a "chargeable asset" in relation to a company at any time if, were the asset to be disposed of by the company at that time, any gain accruing to the company would be a chargeable gain and would by virtue of section **[**F9 10B**]** form part of its chargeable profits for corporation tax purposes.**]**

(2) Subsection (1) above shall not apply where the disposal is—

(a) a disposal of a debt due from **[**F10 company B**]** effected by satisfying the debt or part of it; or

(b) a disposal of redeemable shares in a company on the occasion of their redemption; or

(c) a disposal by or to an investment trust; or

[F11 (cc) a disposal by or to a venture capital trust; or**]**

[F12 (cd) a disposal by or to a qualifying friendly society; or**]**

(d) a disposal to a dual resident investing company; F13 ... **[**F14; or

(da) a disposal by or to a company to which Part 4 of the Finance Act 2006 applies (Real Estate Investment Trusts);**][**F15 or

(db) a disposal by company A in fulfilment of its obligations under an option granted to company B at a time when those companies were not members of the same group;**]**

F13(e) . . . . . .

and the reference in subsection (1) above to **[**F16company A**]** disposing of an asset shall not apply to anything which under section 122 is to be treated as a disposal of an interest in shares in a company in consideration for a capital distribution (as defined in that section) from that company, whether or not involving a reduction of capital.

(3) Subsection (1) above shall not apply to a transaction treated **[**F17by section 127 as it applies by virtue of section 135**]** as not involving a disposal by **[**F18company A**]**.

[F19(3A) Subsection (1) above does not apply—

(a) if section 91A of the Finance Act 1996 (shares subject to third party obligations)—

(i) does not apply in the case of the asset in relation to company A immediately before the disposal, but

(ii) does apply in the case of the asset in relation to company B immediately after its acquisition, or

(b) if that section—

(i) applies in the case of the asset in relation to company A immediately before the disposal, but

(ii) does not apply in the case of the asset in relation to company B immediately after its acquisition.**]**

(4) For the purposes of subsection (1) above, so far as the consideration for the disposal consists of money or money's worth by way of compensation for any kind of damage or injury to assets, or for the destruction or dissipation of assets or for anything which depreciates or might depreciate an asset, the disposal shall be treated as being to the person who, whether as an insurer or otherwise, ultimately bears the burden of furnishing that consideration.

[F20(5) In subsection (2)(cd) above "qualifying friendly society" means a company which is a qualifying society for the purposes of section 461B of the Taxes Act (incorporated friendly societies entitled to exemption from income tax and corporation tax on certain profits).**]**

[F21(6) Subsection (1) above applies notwithstanding any provision in this Act fixing the amount of the consideration deemed to be received on a disposal or given on an acquisition.

But where it is assumed for any purpose that a member of a group of companies has sold or acquired an asset, it shall be assumed also that it was not a sale or acquisition to which this section applies.**]**

Textual Amendments

F8 S. 171(1)(1A) substituted for s. 171(1) (with effect in accordance with Sch. 29 para. 2(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 2(2)** (with Sch. 29 para. 46(5))

F9 Word in s. 171(1A) substituted (with effect in accordance with s. 155(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 27 para. 2(3)**

F10 Words in s. 171(2)(a) substituted (with effect in accordance with Sch. 29 para. 2(6) of the amending Act) by Finance Act 2000 (c. 17), Sch. 29 para. 2(3)(a) (with Sch. 29 para. 46(5))

F11 S. 171(2)(cc) inserted (with application in accordance with s. 135(4) of the amending Act) by Finance Act 1998 (c. 36), **s. 135(1)**

F12 S. 171(2)(cd) inserted (with application in accordance with s. 136(5) of the amending Act) by Finance Act 1998 (c. 36), **s. 136(2)**

F13 S. 171(2)(e) and preceding word repealed (with effect in accordance with s. 251(1)(a)(7) of the amending Act) by Finance Act 1994 (c. 9), s. 251(7)(b), **Sch. 26 Pt. VIII(1)**

F14 S. 171(2)(da) and preceding word inserted (19.7.2006) by Finance Act 2006 (c. 25), **s. 135**

F15 S. 171(2)(db) and preceding word inserted (with effect in accordance with Sch. 5 para. 10(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 5 para. 10(1)**

F16 Words in s. 171(2) substituted (with effect in accordance with Sch. 29 para. 2(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 2(3)(b)** (with Sch. 29 para. 46(5))

F17 Words in s. 171(3) 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(10)**

F18 Words in s. 171(3) substituted (with effect in accordance with Sch. 29 para. 2(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 2(4)** (with Sch. 29 para. 46(5))

F19 S. 171(3A) inserted (with effect in accordance with Sch. 7 para. 9(3) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 9(2)**

F20 S. 171(5) inserted (with application in accordance with s. 136(5) of the amending Act) by Finance Act 1998 (c. 36), **s. 136(3)**

F21 S. 171(6) added (with effect in accordance with Sch. 29 para. 2(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 2(5)** (with Sch. 29 para. 46(5))

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

C6 Ss. 170-181 restricted (12.1.2000) by Greater London Authority Act 1999 (c. 29), **ss. 419(3)**, 425(2); S.I. 1999/3434, art. 2

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C16 S. 171 excluded (27.7.1993 with application as mentioned in s. 165(1)) by 1993 c. 34, s. 169, **Sch. 17 para. 7(2)(b)**

C17 Ss. 171, 172 restricted (with effect in accordance with s. 131(4) of the amending Act) by Finance Act 1995 (c. 4), **s. 131(1)**(2)(a)

C18 S. 171 applied (with modifications) (24.7.2002) by Finance Act 2002 (c. 23), **Sch. 29 para. 86(6)**

C19 S. 171 modified (19.7.2006) by Finance Act 2006 (c. 25), **s. 136(2)(a)**

C20 S. 171 excluded (with effect in accordance with reg. 1(2) of the amending S.I.) by The Taxation of Securitisation Companies Regulations 2006 (S.I. 2006/3296), regs. 1(1), **18(1)**

C21 S. 171 excluded (with effect in accordance with reg. 1(2) of the affecting S.I.) by The Taxation of Insurance Securitisation Companies Regulations 2007 (S.I. 2007/3402), regs. 1(1), **9(2)**

C22 S. 171(1) excluded (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 2(3)**

C23 S. 171(1) excluded (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 7(3)**

C24 S. 171(1) excluded (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 25(3)**

C25 S. 171(1) restricted (8.11.1995) by Atomic Energy Authority Act 1995 (c. 37), **Sch. 3 para. 4(1)**

C26 S. 171(1) excluded (24.7.1996) by Broadcasting Act 1996 (c. 55), s. 149(1), **Sch. 7 para. 2(2)** (with Sch. 7 para. 9(1))

C27 S. 171(1) excluded (1.2.2001) by Transport Act 2000 (c. 38), s. 275(1), Sch. 7 paras. 2(4), 20(5); S.I. 2001/57, **art. 3(1)**

C28 S. 171(2)(cc) excluded (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by The Venture Capital Trust (Winding up and Mergers) (Tax) Regulations 2004 (S.I. 2004/2199), regs. 1(1), **12(2)**

[F22 171A Notional transfers within a group.

(1) This section applies where—

(a) two companies ("A" and "B") are members of a group of companies; and

(b) A disposes of an asset to a person who is not a member of the group ("C").

(2) Subject to subsections (3) and (4) below, A and B may, by notice in writing to an officer of the Board, jointly elect that, for the purposes of corporation tax on chargeable gains—

(a) the asset, or any part of it, shall be deemed to have been transferred by A to B immediately before the disposal to C;

(b) section 171(1) shall be deemed to have applied to that transfer; F23...

(c) the disposal of the asset or part to C shall be deemed to have been made by B[F24; and

(d) any incidental costs to A of making the actual disposal to C shall be deemed to be incidental costs to B of making the deemed disposal to C].

(3) No election may be made under subsection (2) above unless section 171(1) would have applied to an actual transfer of the asset or part from A to B.

F25 [In a case where B—

(3ZA) (a) is not resident in the United Kingdom, but

(b) is carrying on a trade in the United Kingdom through a permanent establishment there,

the asset or part deemed to be transferred to B by A is to be treated for the purposes of subsections (2)(c) and (3) above as having been acquired by B for use by or for the purposes of the permanent establishment; but that shall not be taken to affect the question whether or not the asset or part is situated in the United Kingdom at any time.]

F26 [Section 440(3) of the Taxes Act does not cause subsection (3) above to prevent the

(3A) making of an election in a case where B is an insurance company; and in such a case the asset or part deemed to be transferred to B by A, and by B to C, is to be treated for the purposes of subsections (2)(c) and (3) above as not being part of B's long-term insurance fund.

"Insurance company" and "long-term insurance fund" have the same meaning as in Chapter 1 of Part 12 of the Taxes Act (see section 431(2) of that Act).]

(4) An election under [F27subsection (2) above] must be made [F28on or before] the second anniversary of the end of the accounting period of A in which the disposal to C was made.

(5) Any payment by A to B, or by B to A, in pursuance of an agreement between them in connection with the election—

(a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and

(b) shall not for any purposes of the Corporation Tax Acts be regarded as a distribution F29... ,

provided it does not exceed the amount of the chargeable gain or allowable loss that is treated, as a result of the disposal, as accruing to B.**]**

Textual Amendments

F22 S. 171A inserted (with effect in accordance with s. 101(2) of the amending Act) by Finance Act 2000 (c. 17), **s. 101(1)**

F23 Word in s. 171A(2) omitted (11.5.2001) by virtue of Finance Act 2001 (c. 9), **s. 77(2)** (with Sch. 3)

F24 S. 171A(2)(d) and preceding word added (11.5.2001) by Finance Act 2001 (c. 9), **s. 77(2)** (with Sch. 3)

F25 S. 171A(3ZA) inserted (with effect in accordance with s. 36(3) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **s. 36(2)**

F26 S. 171A(3A) inserted (with effect in accordance with Sch. 33 para. 17(4) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 17(2)**

F27 Word in s. 171A(4) substituted (with effect in accordance with Sch. 33 para. 17(4) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 17(3)**

F28 Words in s. 171A(4) substituted (11.5.2001) by Finance Act 2001 (c. 9), **s. 77(3)** (with Sch. 3)

F29 Words in s. 171A(5)(b) repealed (with effect in accordance with Sch. 11 Pt. 2(7) Note of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 11 Pt. 2(7)**

Modifications etc. (not altering text)

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C29 S. 171A modified (19.7.2006) by Finance Act 2006 (c. 25), **s. 136(2)(a)**

F30 172 Transfer of United Kingdom branch or agency.

. . . . . .

Textual Amendments

F30 S. 172 repealed (with effect in accordance with Sch. 29 para. 3(2), Sch. 40 Pt. 2(12) Note 5 of the amending Act) by Finance Act 2000 (c. 17), Sch. 29 para. 3(1), **Sch. 40 Pt. II(12)** (with Sch. 29 para. 46(5))

[F31 173 Transfers within a group: trading stock.

(1) Where—

(a) a company ("company A") acquires an asset as trading stock of a trade to which this section applies,

(b) the acquisition is from a company ("company B") that at the time of the acquisition is a member of the same group of companies, and

(c) the asset did not form part of the trading stock of any such trade carried on by company B,

company A is treated for the purposes of section 161 as having acquired the asset otherwise than as trading stock and immediately appropriated it for the purposes of the trade as trading stock.

(2) Where—

(a) a company ("company C") disposes of an asset forming part of the trading stock of a trade to which this section applies carried on by that company,

(b) the disposal is to another company ("company D") that at the time of the disposal is a member of the same group of companies, and

(c) the asset is acquired by company D otherwise than as trading stock of any such trade carried on by it,

company C is treated for the purposes of section 161 as having appropriated the asset immediately before the disposal for some purpose other than the purpose of use as trading stock.

(3) The trades to which this section applies are—

(a) any trade carried on by a company resident in the United Kingdom, and

(b) any trade carried on in the United Kingdom through a **[**F32permanent establishment**]** by a company not so resident.**]**

Textual Amendments

F31 S. 173 substituted (with effect in accordance with Sch. 29 para. 11(2) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 11(1)** (with Sch. 29 para. 46(5))

F32 Words in s. 173(3)(b) substituted (with effect in accordance with s. 153(4) of the amending Act) by Finance Act 2003 (c. 14), **s. 153(1)(b)**

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

C6 Ss. 170-181 restricted (12.1.2000) by Greater London Authority Act 1999 (c. 29), **ss. 419(3)**, 425(2); S.I. 1999/3434, art. 2

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

174 Disposal or acquisition outside a group.

F33(1) . . . . . .

F33(2) . . . . . .

F33(3) . . . . . .

(4) Schedule 2 shall apply in relation to a disposal of an asset by a company which is or has been a member of a group of companies, and which acquired the asset from another member of the group **[**F34in a transfer to which section 171(1) applied**]**, as if all members of the group for the time being were the same person, and as if the acquisition or provision of the asset by the group, so taken as a single person, had been the acquisition or provision of it by the member disposing of it.

F35(5) . . . . . .

Textual Amendments

F33 S. 174(1)-(3) repealed (with effect in accordance with Sch. 40 Pt. II(12) Note 6 of the amending Act) by Finance Act 2000 (c. 17), **Sch. 40 Pt. II(12)** (with Sch. 29 para. 46(5))

F34 Words in s. 174(4) substituted (with effect in accordance with Sch. 29 para. 13(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 13(2)** (with Sch. 29 paras. 13(5), 46(5))

F35 S. 174(5) repealed (with effect in accordance with Sch. 29 para. 13(4), Sch. 40 Pt. II(12) Note 6 of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 13(3)**, Sch. 40 Pt. II(12) (with Sch. 29 paras. 13(5), 46(5))

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

C6 Ss. 170-181 restricted (12.1.2000) by Greater London Authority Act 1999 (c. 29), **ss. 419(3)**, 425(2); S.I. 1999/3434, art. 2

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C30 S. 174 modified (19.9.1994) by Coal industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 21(2)** (with Sch. 4 para. 14); S.I. 1994/2189, art. 2, Sch.

175 Replacement of business assets by members of a group.

(1) Subject to subsection (2) below, for the purposes of sections 152 to 158 all the trades **[**F36to which this section applies**]** carried on by members of a group of companies shall, for the purposes of corporation tax on chargeable gains, be treated as a single trade F37... .

[F38(1A) The trades to which this section applies are—

(a) any trade carried on by a company that is resident in the United Kingdom, and

(b) any trade carried on in the United Kingdom through a **[**F39permanent establishment**]** by a company not so resident.**]**

(2) Subsection (1) above does not apply where so much of the consideration for the disposal of the old assets as is applied in acquiring the new assets or the interest in them is so applied by a member of the group which is a dual resident investing company F40... and in this subsection "the old assets" and "the new assets" have the same meanings as in section 152.

[F41(2A) Section 152 **[**F42or 153**]** shall apply where—

(a) the disposal is by a company which, at the time of the disposal, is a member of a group of companies,

(b) the acquisition is by another company which, at the time of the acquisition, is a member of the same group, and

F43**[**(ba) the conditions in subsection (2AA) below are met, and**]**

(c) the claim is made by both companies,

as if both companies were the same person.

F44**[**(2AA) The conditions referred to in subsection (2A)(ba) above are—

(a) that the company making the disposal is resident in the United Kingdom at the time of the disposal, or the assets are chargeable assets in relation to that company immediately before that time, and

(b) that the acquiring company is resident in the United Kingdom at the time of the acquisition, or the assets are chargeable assets in relation to that company immediately after that time.

For this purpose an asset is a "chargeable asset" in relation to a company at any time if, were the asset to be disposed of by the company at that time, any gain accruing to

the company would be a chargeable gain and would by virtue of section **[**F45 10B**]** form part of its chargeable profits for corporation tax purposes.**]**

(2B) Section 152 **[**F46 or 153**]** shall apply where a company which is a member of a group of companies but is not carrying on a trade—

(a) disposes of assets (or an interest in assets) used, and used only, for the purposes of the trade which (in accordance with subsection (1) above) is treated as carried on by the members of the group which carry on a trade, or

(b) acquires assets (or an interest in assets) taken into use, and used only, for those purposes,

as if the first company were carrying on that trade.

(2C) **[**F47 Neither section 152 nor section 153 shall**]** apply if the acquisition of, or of the interest in, the new assets—

(a) is made by a company which is a member of a group of companies, and

(b) is one to which any of the enactments specified in section 35(3)(d) applies.**]**

[F48 (3) Section 154(2) applies where the company making the claim is a member of a group of companies—

(a) as if all members of the group for the time being carrying on a trade to which this section applies were the same person, and

(b) in accordance with subsection (1) above, as if all those trades were the same trade;

so that the gain accrues to the member of the group holding the asset concerned on the occurrence of the event mentioned in section 154(2).**]**

(4) Subsection (2) above shall apply where the acquisition took place before 20th March 1990 and the disposal takes place within the period of 12 months beginning with the date of the acquisition or such longer period as the Board may by notice allow with the omission of the words from "or a company" to "the acquisition".

Textual Amendments

F36 Words in s. 175(1) inserted (with effect in accordance with Sch. 29 para. 10(7) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 10(2)** (with Sch. 29 paras. 10(8), 46(5))

F37 Words in s. 175(1) repealed (with effect in accordance with Sch. 29 Pt. VIII(4) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. VIII(4)**

F38 S. 175(1A) inserted (with effect in accordance with Sch. 29 para. 10(7) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 10(3)** (with Sch. 29 paras. 10(8), 46(5))

F39 Words in s. 175(1A)(b) substituted (with effect in accordance with s. 153(4) of the amending Act) by Finance Act 2003 (c. 14), **s. 153(1)(b)**

F40 Words in s. 175(2) repealed (with effect in accordance with s. 251(1)(a)(8) of the amending Act) by Finance Act 1994 (c. 9), s. 251(8), **Sch. 26 Pt. VIII(1)**

F41 S. 175(2A)-(2C) inserted (retrospectively as respects s. 175(2A), with application in accordance with s. 48(5) of the amending Act as respects s. 175(2B)(2C)) by Finance Act 1995 (c. 4), **s. 48(1)**(3) (with s. 48(4)(5))

F42 Words in s. 175(2A) inserted (with effect in accordance with s. 121(8) of the amending Act) by Finance Act 1996 (c. 8), **s. 141(3)(a)**

F43 S. 175(2A)(ba) inserted (with effect in accordance with Sch. 29 para. 10(7) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 10(4)** (with Sch. 29 paras. 10(8), 46(5))

F44 S. 175(2AA) inserted (with effect in accordance with Sch. 29 para. 10(7) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 10(5)** (with Sch. 29 paras. 10(8), 46(5))

F45 Word in s. 175(2AA) substituted (with effect in accordance with s. 155(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 27 para. 2(3)**

F46 Words in s. 175(2B) inserted (with effect in accordance with s. 121(8) of the amending Act) by Finance Act 1996 (c. 8), **s. 141(3)(a)**

F47 Words in s. 175(2C) substituted (with effect in accordance with s. 121(8) of the amending Act) by Finance Act 1996 (c. 8), **s. 141(3)(b)**

F48 S. 175(3) substituted (with effect in accordance with Sch. 29 para. 10(7) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 10(6)** (with Sch. 29 paras. 10(8), 46(5))

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

C6 Ss. 170-181 restricted (12.1.2000) by Greater London Authority Act 1999 (c. 29), **ss. 419(3)**, 425(2); S.I. 1999/3434, art. 2

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C31 S. 175(2A)(c) restricted (1.5.1995) by Finance Act 1995 (c. 4), **s. 48(4)**

Losses attributable to depreciatory transactions

176 Depreciatory transactions within a group.

(1) This section has effect as respects a disposal of shares in, or securities of, a company ("the ultimate disposal") if the value of the shares or securities has been materially reduced by a depreciatory transaction effected on or after 31st March 1982; and for this purpose "depreciatory transaction" means—

(a) any disposal of assets at other than market value by one member of a group of companies to another, or

(b) any other transaction satisfying the conditions of subsection (2) below,

except that a transaction shall not be treated as a depreciatory transaction to the extent that it consists of a payment which is required to be or has been brought into account, for the purposes of corporation tax on chargeable gains, in computing a chargeable gain or allowable loss accruing to the person making the ultimate disposal.

(2) The conditions referred to in subsection (1)(b) above are—

(a) that the company, the shares in which, or securities of which, are the subject of the ultimate disposal, or any 75 per cent. subsidiary of that company, was a party to the transaction, and

(b) that the parties to the transaction were or included 2 or more companies which at the time of the transaction were members of the same group of companies.

(3) Without prejudice to the generality of subsection (1) above, the cancellation of any shares in or securities of one member of a group of companies under section 135 of the [M5]Companies Act 1985 shall, to the extent that immediately before the cancellation those shares or securities were the property of another member of the group, be taken to be a transaction fulfilling the conditions in subsection (2) above.

(4) If the person making the ultimate disposal is, or has at any time been, a member of the group of companies referred to in subsection (1) or (2) above, any allowable loss accruing on the disposal shall be reduced to such extent as **[**[F49]is**]** just and reasonable having regard to the depreciatory transaction, but if the person making the ultimate disposal is not a member of that group when he disposes of the shares or securities, no

reduction of the loss shall be made by reference to a depreciatory transaction which took place when that person was not a member of that group.

(5) **[**F50A reduction under subsection (4) above shall be made**]** on the footing that the allowable loss ought not to reflect any diminution in the value of the company's assets which was attributable to a depreciatory transaction, but allowance may be made for any other transaction on or after 31st March 1982 which has enhanced the value of the company's assets and depreciated the value of the assets of any other member of the group.

(6) If, under subsection (4) above, a reduction is made in an allowable loss, any chargeable gain accruing on a disposal of the shares or securities of any other company which was a party to the depreciatory transaction by reference to which the reduction was made, being a disposal not later than 6 years after the depreciatory transaction, shall be reduced to such extent as **[**F51is**]** just and reasonable having regard to the effect of the depreciatory transaction on the value of those shares or securities at the time of their disposal, but the total amount of any one or more reductions in chargeable gains made by reference to a depreciatory transaction shall not exceed the amount of the reductions in allowable losses made by reference to that depreciatory transaction.

All such adjustments, whether by way of discharge or repayment of tax, or otherwise, as are required to give effect to the provisions of this subsection may be made at any time.

(7) For the purposes of this section—

(a) "securities" includes any loan stock or similar security whether secured or unsecured,

(b) references to the disposal of assets include references to any method by which one company which is a member of a group appropriates the goodwill of another member of the group, F52...

F52(c) . . . . . .

(8) References in this section to the disposal of shares or securities include references to the occasion of the making of a claim under section 24(2) that the value of shares or securities has become negligible, and references to a person making a disposal shall be construed accordingly.

(9) In any case where the ultimate disposal is not one to which section 35(2) applies, the references above to 31st March 1982 shall be read as references to 6th April 1965.

Textual Amendments

F49 Words in s. 176(4) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 20 para. 57(1)**

F50 Words in s. 176(5) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 20 para. 57(2)**

F51 Words in s. 176(6) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 20 para. 57(1)**

F52 S. 176(7)(c) and preceding word repealed (with effect in accordance with Sch. 29 para. 24(2) of the amending Act) by Finance Act 2000 (c. 17), Sch. 29 para. 24(1), **Sch. 40 Pt. II(12)** (with Sch. 29 para. 46(5))

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

C6 Ss. 170-181 restricted (12.1.2000) by Greater London Authority Act 1999 (c. 29), **ss. 419(3)**, 425(2); S.I. 1999/3434, art. 2

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C32 S. 176 modified (27.7.1993) by 1993 c. 37, s. 12, **Sch. 2 Pt. I para. 18(2)**

C33 S. 176 applied (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), s. 105, **Sch. 15 para. 8(9)**

C34 S. 176(1) applied (23.3.1995) by The Exchange Gains and Losses (Transitional Provisions) Regulations 1994 (S.I. 1994/3226), regs. 1(2), **9(6)**

C35 S. 176(2) applied (23.3.1995) by The Exchange Gains and Losses (Transitional Provisions) Regulations 1994 (S.I. 1994/3226), regs. 1(2), **14(4)**

Marginal Citations

M5 1985 c. 6.

177 Dividend stripping.

(1) The provisions of this section apply where one company ("the first company") has a holding in another company ("the second company") and the following conditions are fulfilled—

(a) that the holding amounts to, or is an ingredient in a holding amounting to, 10 per cent. of all holdings of the same class in the second company,

(b) that the first company is not a dealing company in relation to the holding,

(c) that a distribution is or has been made to the first company in respect of the holding, and

(d) that the effect of the distribution is that the value of the holding is or has been materially reduced.

(2) Where this section applies in relation to a holding, section 176 shall apply, subject to subsection (3) below, in relation to any disposal of any shares or securities comprised in the holding, whether the disposal is by the first company or by any other company to which the holding is transferred by a transfer to which section **[**F53140A,**][**F54or 171**]** applies, as if the distribution were a depreciatory transaction and, if the companies concerned are not members of a group of companies, as if they were.

(3) The distribution shall not be treated as a depreciatory transaction to the extent that it consists of a payment which is required to be or has been brought into account, for the purposes of corporation tax on chargeable gains, in computing a chargeable gain or allowable loss accruing to the person making the ultimate disposal.

(4) This section shall be construed as one with section 176, and in any case where the ultimate disposal is not one to which section 35(2) applies, the reference in subsection (1)(c) above to a distribution does not include a distribution made before 30th April 1969.

(5) For the purposes of this section a company is "a dealing company" in relation to a holding if a profit on the sale of the holding would be taken into account in computing the company's trading profits.

(6) References in this section to a holding in a company refer to a holding of shares or securities by virtue of which the holder may receive distributions made by the company, but so that—

(a) a company's holdings of different classes in another company shall be treated as separate holdings, and

(b) holdings of securities which differ in the entitlements or obligations they confer or impose shall be regarded as holdings of different classes.

(7) For the purposes of subsection (1) above—

(a) all a company's holdings of the same class in another company are to be treated as ingredients constituting a single holding, and

(b) a company's holding of a particular class shall be treated as an ingredient in a holding amounting to 10 per cent. of all holdings of that class if the aggregate of that holding and other holdings of that class held by connected persons amounts to 10 per cent. of all holdings of that class,

and section 286 shall have effect in relation to paragraph (b) above as if, in subsection (7) of that section, after the words "or exercise control of" in each place where they occur there were inserted the words " or to acquire a holding in ".

Textual Amendments

F53 Words in s. 177(2) inserted (*retrosp.*) by 1992 c. 48, **s. 46(1)(6)**

F54 Words in s. 177(2) substituted (with effect in accordance with Sch. 29 para. 25(2) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 25(1)** (with Sch. 29 para. 46(5))

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

C6 Ss. 170-181 restricted (12.1.2000) by Greater London Authority Act 1999 (c. 29), **ss. 419(3)**, 425(2); S.I. 1999/3434, art. 2

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C36 S. 177: modified (27.7.1993 with application as mentioned in s. 165(1)) by 1993 c. 34, s. 169, **Sch. 17 paras. 5(1)**; modified (27.7.1993 with application as mentioned in s. 165(1)) by 1993 c. 34, s. 169, **Sch. 17 paras. 5(3)**; modified (27.7.1993 with application as mentioned in s. 165(1)) by 1993, s. 169, Sch. 17 paras. 6(2); modified (27.7.1993 with applicaton as mentioned in s. 165(1)) by 1993 c. 34, **Sch. 17 paras. 6(3)**

[177A F55 Restriction on set-off of pre-entry losses.

Schedule 7A to this Act (which makes provision in relation to losses accruing to a company before the time when it becomes a member of a group of companies and losses accruing on assets held by any company at such a time) shall have effect.]

Textual Amendments

F55 S. 177A inserted (27.7.1993 with application as mentioned in s. 88(3)) by 1993 c. 34, **s. 88(1)**

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

C6 Ss. 170-181 restricted (12.1.2000) by Greater London Authority Act 1999 (c. 29), **ss. 419(3)**, 425(2); S.I. 1999/3434, art. 2

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

[F56 Pre-entry gains]

Textual Amendments

F56 S. 177B and cross-heading inserted (with effect in accordance with s. 137(5) of the amending Act) by Finance Act 1998 (c. 36), **s. 137(1)**

F57 177B Restrictions on setting losses against pre-entry gains.

. . . . . .

Textual Amendments

F57 S. 177B repealed (with effect in accordance with s. 70(6)-(8) of the amending Act) by Finance Act 2006 (c. 25), s. 70(4), **Sch. 26 Pt. 3(9)** (with s. 70(10)-(11))

Companies leaving groups

F58 178 Company ceasing to be member of group: pre-appointed day cases.

. . . . . .

Textual Amendments

F58 S. 178 repealed (28.7.2000) by Finance Act 2000 (c. 17), Sch. 29 para. 26, **Sch. 40 Pt. II(12)** (with Sch. 29 para. 46(5))

179 Company ceasing to be member of group: post-appointed day cases.

[F59(1) This section applies where—

(a) a company ("company A") acquires an asset from another company ("company B") at a time when company B is a member of a group,

(b) the conditions in subsection (1A) below are met, and

(c) company A ceases to be a member of that group within the period of six years after the time of the acquisition.

References in this section to a company ceasing to be a member of a group of companies do not apply to cases where a company ceases to be a member of a group in consequence of another member of the group ceasing to exist.

(1A) The conditions referred to in subsection (1)(b) above are—

(a) that company A is resident in the United Kingdom at the time it acquires the asset, or the asset is a chargeable asset in relation to that company immediately after that time, and

(b) that company B is resident in the United Kingdom at the time of that acquisition, or the asset is a chargeable asset in relation to that company immediately before that time.

For this purpose an asset is a "chargeable asset" in relation to a company at any time if, were the asset to be disposed of by the company at that time, any gain accruing to the company would be a chargeable gain and would by virtue of section **[**F60 10B**]** form part of its chargeable profits for corporation tax purposes.**]**

[F61 (1AA) If shares in a company are transferred as part of the process of the transfer of a business to which section 140A or 140C applies and in consequence of the transfer the company ceases to be a member of a group ("Group 1")—

(a) the company shall not be treated for the purposes of this section as having left Group 1, and

(b) if the transferee is a member of a group ("Group 2") and in consequence of the transfer the company becomes a member of Group 2 it shall be treated, for the purposes of this section, as if Group 1 and Group 2 were the same.**]**

[F62 (1B) Where, as part of the process of a merger to which section 140E applies, a company which is a member of a group ("Group 1") ceases to exist and in consequence of that cessation—

(a) assets are transferred to the transferee, or

(b) shares in one or more companies which were also members of the group are transferred to the transferee,

a company which has ceased to exist, or the shares in which have been transferred to the transferee, shall not be treated for the purposes of this section as having left Group 1.

(1C) If subsection (1B) applies in relation to a company then for the purposes of this section—

(a) the transferee and a company which has ceased to exist in consequence of the merger shall be treated as the same entity, and

(b) if the transferee is a member of a group ("Group 2") following the merger (whether or not as the principal company of the group) a company which was a member of Group 1 and became a member of Group 2 in consequence of the merger shall be treated, for the purposes of this section, as if Group 1 and Group 2 were the same.

(1D) In subsections (1B) and (1C), "transferor" and "transferee" have the meaning given by section 140E(9).**]**

(2) Where 2 or more associated companies cease to be members of the group at the same time, subsection (1) above shall not have effect as respects an acquisition by one from another of those associated companies.

[F63 (2A) Where—

(a) a company **[**F64("company A")**]** that has ceased to be a member of a group of companies ("the first group") acquired an asset from another company

[F65(“company B”)**]** which was a member of that group at the time of the acquisition,

(b) subsection (2) above applies in the case of **[**F66company A’s**]** ceasing to be a member of the first group so that subsection (1) above does not have effect as respects the acquisition of that asset,

(c) **[**F67company A**]** subsequently ceases to be a member of another group of companies (“the second group”), and

(d) there is a connection between the two groups,

subsection (1) above shall have effect in relation to **[**F68company A’s**]** ceasing to be a member of the second group as if it had been the second group of which both companies had been members at the time of the acquisition.

(2B) For the purposes of subsection (2A) above there is a connection between the first group and the second group if, at the time when **[**F69company A**]** ceases to be a member of the second group, the company which is the principal company of that group is under the control of—

(a) the company which is the principal company of the first group or, if that group no longer exists, which was the principal company of that group when **[**F69company A**]** ceased to be a member of it;

(b) any **[**F70person or persons who control the company mentioned in paragraph (a) above or who have had it under their**]** control at any time in the period since **[**F69company A**]** ceased to be a member of the first group; or

(c) any **[**F71person or persons who have, at any time in that period, had under their**]** control either—

(i) a company which would have **[**F72been a person falling**]** within paragraph (b) above if it had continued to exist, or

(ii) a company which would have **[**F72been a person falling**]** within this paragraph (whether by reference to a company which would have **[**F72been a person falling**]** within that paragraph or to a company or series of companies falling within this sub-paragraph).**]**

[F73(2C) This section shall not have effect as respects any asset if, before the time when **[**F69company A**]** ceases to be a member of the group or, as the case may be, the second group, an event has already occurred by virtue of which the company falls by virtue of section 101A(3) to be treated as having sold and immediately reacquired the asset at the time specified in subsection (3) below.**]**

[F74(2D) This section shall not have effect as respects any asset if, before the time when **[**F69company A**]** ceases to be a member of the group or, as the case may be, the second group, an event has already occurred by virtue of which the company falls by virtue of section 101C(3) to be treated as having sold and immediately reacquired the asset at the time specified in subsection (3) below.**]**

(3) If, when **[**F69company A**]** ceases to be a member of the group, **[**F69company A**]**, or an associated company also leaving the group, owns, otherwise than as trading stock—

(a) the asset, or

(b) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,

then, subject to subsection (4) below, **[**F69company A**]** shall be treated for all the purposes of this Act as if immediately after its acquisition of the asset it had sold, and immediately reacquired, the asset at market value at that time.

(4) Any chargeable gain or allowable loss **[**F75accruing**]** to **[**F76company A**]** on the sale referred to in subsection (3) above shall be treated as accruing to **[**F76company A**][**F77at whichever is the later of the following, that is to say—

(a) the time immediately after the beginning of the accounting period of that company in which or, as the case may be, at the end of which the company ceases to be a member of the group; and

(b) the time when under subsection (3) above it is treated as having reacquired the asset;

[F78and sections 403A and 403B of the Taxes Act (limits on group relief) shall have effect accordingly as if the actual circumstances were as they are treated as having been**].]**

(5) Where, apart from subsection (6) below, a company ceasing to be a member of a group by reason only of the fact that the principal company of the group becomes a member of another group would be treated by virtue of subsection (3) above as selling an asset at any time, subsections (6) to (8) below shall apply.

(6) The company in question shall not be treated as selling the asset at that time; but if—

(a) within 6 years of that time the company in question ceases at any time ("the relevant time") to satisfy the following conditions, and

(b) at the relevant time, the company in question, or a company in the same group as that company, owns otherwise than as trading stock the asset or property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,

the company in question shall be treated for all the purposes of this Act as if, immediately after its acquisition of the asset, it had sold and immediately reacquired the asset at the value that, at the time of acquisition, was its market value.

(7) Those conditions are—

(a) that the company is a 75 per cent. subsidiary of one or more members of the other group referred to in subsection (5) above, and

(b) that the company is an effective 51 per cent. subsidiary of one or more of those members.

(8) Any chargeable gain or allowable loss accruing to the company on that sale shall be treated as accruing at the relevant time.

(9) Where—

(a) by virtue of this section a company is treated as having sold an asset at any time, and

(b) if at that time the company had in fact sold the asset at market value at that time, then, by virtue of section 30, any allowable loss or chargeable gain accruing on the disposal would have been calculated as if the consideration for the disposal were increased by an amount,

subsections (3) and (6) above shall have effect as if the market value at that time had been that amount greater.

[F79(9A) Section 416(2) to (6) of the Taxes Act (meaning of control) shall have effect for the purposes of subsection (2B) above as it has effect for the purposes of Part XI of that Act; but a person carrying on a business of banking shall not for the purposes of that subsection be regarded as having control of any company by reason only of having, or of the consequences of having exercised, any rights of that person in respect of loan

capital or debt issued or incurred by the company for money lent by that person to the company in the ordinary course of that business.**]**

(10) For the purposes of this section—

(a) 2 or more companies are associated companies if, by themselves, they would form a group of companies,

(b) a chargeable gain is carried forward from an asset to other property on a replacement of business assets if, by one or more claims under sections 152 to 158, the chargeable gain accruing on a disposal of the asset is reduced, and as a result an amount falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of the other property,

(c) an asset acquired by **[**[F80]company A**]** shall be treated as the same as an asset owned at a later time by that company or an associated company if the value of the second asset is derived in whole or in part from the first asset, and in particular where the second asset is a freehold, and the first asset was a leasehold and the lessee has acquired the reversion.

[F81](11) . . . . . .

[F81](12) . . . . . .

(13) Where under this section **[**[F82]company A**]** is to be treated as having disposed of, and reacquired, an asset, all such recomputations of liability in respect of other disposals, and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section shall be carried out.

Textual Amendments

F59 S. 179(1)(1A) substituted for s. 179(1) (with effect in accordance with Sch. 29 para. 4(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 4(2)** (with Sch. 29 para. 46(5))

F60 Word in s. 179(1A) substituted (with effect in accordance with s. 155(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 27 para. 2(3)**

F61 S. 179(1AA) inserted (with effect in accordance with reg. 3(1) of the amending S.I.) by The Corporation Tax (Implementation of the Mergers Directive) Regulations 2007 (S.I. 2007/3186), reg. 1(2), **Sch. 1 para. 9** (with S.I. 2008/1579, **reg. 4(1)** (with S.I. 2008/1579, reg. 4(1)))

F62 S. 179(1B)-(1D) substituted for s. 179(1B)(1C) (with effect in accordance with reg. 3(2) of the amending S.I.) by The Corporation Tax (Implementation of the Mergers Directive) Regulations 2007 (S.I. 2007/3186), reg. 1(2), **Sch. 2 para. 7** (with S.I. 2008/1579, reg. 4(1))

F63 S. 179(2A)(2B) inserted (with effect in accordance with s. 49(3) of the amending Act) by Finance Act 1995 (c. 4), **s. 49(1)**

F64 Words in s. 179(2A)(a) inserted (with effect in accordance with Sch. 29 para. 4(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 4(3)(a)(i)** (with Sch. 29 para. 46(5))

F65 Words in s. 179(2A)(a) inserted (with effect in accordance with Sch. 29 para. 4(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 4(3)(a)(ii)** (with Sch. 29 para. 46(5))

F66 Words in s. 179(2A)(b) substituted (with effect in accordance with Sch. 29 para. 4(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 4(3)(b)** (with Sch. 29 para. 46(5))

F67 Words in s. 179(2A)(c) substituted (with effect in accordance with Sch. 29 para. 4(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 4(3)(c)** (with Sch. 29 para. 46(5))

F68 Words in s. 179(2A) substituted (with effect in accordance with Sch. 29 para. 4(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 4(3)(d)** (with Sch. 29 para. 46(5))

F69 Words in s. 179(2B)-(3) substituted (with effect in accordance with Sch. 29 para. 4(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 4(4)** (with Sch. 29 para. 46(5))

F70 Words in s. 179(2B)(b) substituted (with effect in accordance with s. 139(2) of the amending Act) by Finance Act 1998 (c. 36), **s. 139(1)(a)**

F71 Words in s. 179(2B)(c) substituted (with effect in accordance with s. 139(2) of the amending Act) by Finance Act 1998 (c. 36), **s. 139(1)(b)**

F72 Words in s. 179(2B)(c) substituted (with effect in accordance with s. 139(2) of the amending Act) by Finance Act 1998 (c. 36), **s. 139(1)(c)**

F73 S. 179(2C) inserted (with application in accordance with s. 133(3) of the amending Act) by Finance Act 1998 (c. 36), **s. 133(2)**

F74 S. 179(2D) inserted (with application in accordance with s. 135(5) of the amending Act) by Finance Act 1998 (c. 36), **s. 135(3)**

F75 Word in s. 179(4) substituted (with effect in accordance with s. 44(3)(5) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 8 para. 2**

F76 Words in s. 179(4) substituted (with effect in accordance with Sch. 29 para. 4(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 4(4)** (with Sch. 29 para. 46(5))

F77 Words in s. 179(4) substituted (27.7.1993 with effect as mentioned in s. 89(2)) by 1993 c. 34, **s. 89(1)(2)**

F78 Words in s. 179(4) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 7 para. 8**

F79 S. 179(9A) inserted (with effect in accordance with s. 49(3) of the amending Act) by Finance Act 1995 (c. 4), **s. 49(2)**

F80 Words in s. 179(10)(c) substituted (with effect in accordance with Sch. 29 para. 4(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 4(4)** (with Sch. 29 para. 46(5))

F81 S. 179(11)(12) repealed (with effect in accordance with Sch. 29 para. 4(7), Sch. 40 Pt. II(12) Note 8 of the amending Act) by Finance Act 2000 (c. 17), Sch. 29 para. 4(5), **Sch. 40 Pt. II(12)** (with Sch. 29 para. 46(5))

F82 Words in s. 179(13) substituted (with effect in accordance with Sch. 29 para. 4(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 4(4)** (with Sch. 29 para. 46(5))

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

C6 Ss. 170-181 restricted (12.1.2000) by Greater London Authority Act 1999 (c. 29), **ss. 419(3)**, 425(2); S.I. 1999/3434, art. 2

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C37 S. 179 excluded (27.7.1993) by 1993 c. 37, s. 12, **Sch. 2 Pt. I para. 4(1)**
S. 179: modified (27.7.1993) by 1993 c. 37, s. 12, **Sch. 2 Pt. I para. 4(2)**; modified (27.7.1993) by 1993 c. 37, s. 12, **Sch. 2 Pt. I para. 51(2)**

C38 S. 179 modified (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 8(1)-(3)**

C39 S. 179 applied (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 8(5)**

C40 S. 179 restricted (3.5.1994) by Finance Act 1994 (c. 9), **s. 250(2)**

C41 S. 179 modified (19.9.1994) by Coal industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 8(1)(2)** (with Sch. 4 paras. 8(3), 14); S.I. 1994/2189, art. 2, Sch.

C42 S. 179 applied (19.9.1994) by Coal industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 8(4)** (with Sch. 4 para. 14); S.I. 1994/2189, art. 2, Sch.

C43 S. 179 modified (8.11.1995) by Atomic Energy Authority Act 1995 (c. 37), Sch. 3 para. 5(1)**(2)** (with Sch. 3 para. 5(4))

C44 S. 179 modified (24.7.1996) by Broadcasting Act 1996 (c. 55), s. 149(1), **Sch. 7 para. 6** (with Sch. 7 para. 9(1))

C45 S. 179 excluded (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **3(4)**, **4(2)**

C46 S. 179 modified (12.1.2000) by Greater London Authority Act 1999 (c. 29), s. 425(2), Sch. 33 paras. 3, **9**; S.I. 1999/3434, **art. 2**

C47 S. 179 modified (1.2.2001) by Transport Act 2000 (c. 38), s. 275(1), Sch. 7 paras. 8-10; S.I. 2001/57, **art. 3(1)**

C48 S. 179 modified (15.1.2001) by Transport Act 2000 (c. 38), s. 275(1), **Sch. 26 paras. 11**, **20**, **25**, **32**; S.I. 2000/3376, art. 2

C49 S. 179 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 paras. 5**, **19** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C50 S. 179 modified (E.W.S.) (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 10 para. 26**; S.I. 2005/1909, art. 2, Sch.

Commencement Information

I1 s. 179: 30.9.1993 appointed for the purposes of s. 179 by S.I. 1992/3066, **art. 2(2)(d)**

[F83 179A Reallocation within group of gain or loss accruing under section 179

(1) This section applies where—

(a) a company ("company A") is treated by virtue of section 179(3) or (6) as having sold and immediately reacquired an asset at market value, and

(b) a chargeable gain or an allowable loss accrues to the company on the deemed sale.

(2) In this section "time of accrual" means—

(a) in a case where section 179(3) applies, the time at which, by virtue of section 179(4), the gain or loss referred to in subsection (1) above is treated as accruing to company A;

(b) in a case where section 179(6) applies, the latest time at which the company satisfies the conditions in section 179(7).

(3) If—

(a) a joint election under this section is made by company A and a company ("company C") that was a member of the relevant group at the time of accrual, and

(b) the conditions in subsections (6) to (8) below are all met,

the chargeable gain or allowable loss accruing on the deemed sale, or such part of it as may be specified in the election, shall be treated as accruing not to company A but to company C.

(4) In subsection (3) above "the relevant group" means—

(a) in a case where section 179(3) applies, the group of which company A was a member at the time of accrual;

(b) in a case where section 179(6) applies, the second group referred to in section 179(5).

(5) Where two or more elections are made each specifying a part of the same gain or loss, the total amount specified may not exceed the whole of that gain or loss.

(6) The first condition is that, at the time of accrual, company C—

(a) was resident in the United Kingdom, or

(b) owned assets that were chargeable assets in relation to it.

(7) The second condition is that neither company A nor company C was at that time a qualifying friendly society within the meaning given by section 171(5)).

(8) The third condition is that company C was not at that time an investment trust, a venture capital trust or a dual resident investing company.

(9) A gain or loss treated by virtue of this section as accruing to a company that is not resident in the United Kingdom shall be treated as accruing in respect of a chargeable asset held by that company.

(10) An election under this section must be made—

(a) by notice to an officer of the Board;

(b) no later than two years after the end of the accounting period of company A in which the time of accrual fell.

(11) Any payment by company A to company C, or by company C to company A, in pursuance of an agreement between them in connection with the election—

(a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and

(b) shall not for any purposes of the Corporation Tax Acts be regarded as a distribution [F84]... ,

provided it does not exceed the amount of the chargeable gain or allowable loss that is treated, as a result of the election, as accruing to company C.

(12) For the purposes of this section an asset is a "chargeable asset" in relation to a company at a particular time if any gain accruing to the company on a disposal of the asset by the company at that time would be a chargeable gain and would by virtue of **[**[F85]section 10B**]** form part of its chargeable profits for corporation tax purposes.**]**

Textual Amendments

F83 S. 179A inserted (with application in accordance with s. 42(4) of the amending Act) by Finance Act 2002 (c. 23), **s. 42(1)**

F84 Words in s. 179A(11)(b) repealed (with effect in accordance with Sch. 11 Pt. 2(7) Note of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 11 Pt. 2(7)**

F85 Words in s. 179A(12) substituted (with effect in accordance with Sch. 4 para. 10(3) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 4 para. 8(2)**

Modifications etc. (not altering text)

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C51 S. 179A modified (19.7.2006) by Finance Act 2006 (c. 25), **s. 136(2)(b)**

C52 S. 179A excluded (with effect in accordance with reg. 1(2) of the affecting S.I.) by The Taxation of Securitisation Companies Regulations 2006 (S.I. 2006/3296), regs. 1(1), **18(2)**

C53 S. 179A excluded (with effect in accordance with reg. 1(2) of the affecting S.I.) by The Taxation of Insurance Securitisation Companies Regulations 2007 (S.I. 2007/3402), regs. 1(1), **9(3)**

[[F86]**179B Roll-over of degrouping charge on business assets**

(1) Where a company is treated by virtue of section 179(3) or (6) as having sold and immediately reacquired an asset at market value, relief under section 152 or 153 (roll-

over relief on replacement of business assets) is available in accordance with this section in relation to any gain accruing to the company on the deemed sale.

(2) For this purpose, sections 152 and 153 and the other enactments specified in Schedule 7AB apply with the modifications set out in that Schedule.

(3) Where there has been an election under section 179A, any claim for relief available in accordance with this section must be made by company C rather than company A.

(4) For this purpose, the enactments modified by Schedule 7AB have effect as if—

(a) references to company A, except those in sections 152(1)(a) and (1B), 153(1B), 153A(5), 159(1), 175 and 198(1), were to company C;

(b) the references to "that company" in section 159(1) and "the company" in section 185(3)(b) were to company C;

(c) the reference to "that trade" in section 198(1) were to a ring fence trade carried on by company C.

(5) Where there has been an election under section 179A in respect of part only of the chargeable gain accruing on the deemed sale of an asset, the enactments modified by Schedule 7AB and subsections (3) and (4) above apply as if the deemed sale had been of a separate asset representing a corresponding part of the asset; and any necessary apportionments shall be made accordingly.

(6) A reference in this section to company A or to company C is to the company referred to as such in section 179A.**]**

Textual Amendments

F86 S. 179B inserted (with application in accordance with s. 43(4) of the amending Act) by Finance Act 2002 (c. 23), **s. 43(1)**

Modifications etc. (not altering text)

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C54 S. 179B modified (19.7.2006) by Finance Act 2006 (c. 25), **s. 136(2)(b)**

[F87]180 Transitional provisions.

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Textual Amendments

F87 S. 180 repealed (28.7.2000) by Finance Act 2000 (c. 17), Sch. 29 para. 27, **Sch. 40 Pt. II(12)** (with Sch. 29 para. 46(5))

181 Exemption from charge under 178 or 179 in the case of certain mergers.

(1) Subject to the following provisions of this section, **[**[F88]section 179 shall not**]** apply in a case where—

(a) as part of a merger, a company ("company A") ceases to be a member of a group of companies ("the A group"); and

(b) [F89]... the merger was carried out for bona fide commercial reasons and [F89]... the avoidance of liability to tax was not the main or one of the main purposes of the merger.

(2) In this section "merger" means an arrangement (which in this section includes a series of arrangements)—

(a) whereby one or more companies ("the acquiring company" or, as the case may be, "the acquiring companies") none of which is a member of the A group acquires or acquire, otherwise than with a view to their disposal, one or more interests in the whole or part of the business which, before the arrangement took effect, was carried on by company A; and

(b) whereby one or more members of the A group acquires or acquire, otherwise than with a view to their disposal, one or more interests in the whole or part of the business or each of the businesses which, before the arrangement took effect, was carried on either by the acquiring company or acquiring companies or by a company at least 90 per cent. of the ordinary share capital of which was then beneficially owned by 2 or more of the acquiring companies; and

(c) in respect of which the conditions in subsection (4) below are fulfilled.

(3) For the purposes of subsection (2) above, a member of a group of companies shall be treated as carrying on as one business the activities of that group.

(4) The conditions referred to in subsection (2)(c) above are—

(a) that not less than 25 per cent. by value of each of the interests acquired as mentioned in paragraphs (a) and (b) of subsection (2) above consists of a holding of ordinary share capital, and the remainder of the interest, or as the case may be of each of the interests, acquired as mentioned in subsection (2)(b), consists of a holding of share capital (of any description) or debentures or both; and

(b) that the value or, as the case may be, the aggregate value of the interest or interests acquired as mentioned in subsection (2)(a) above is substantially the same as the value or, as the case may be, the aggregate value of the interest or interests acquired as mentioned in subsection (2)(b) above; and

(c) that the consideration for the acquisition of the interest or interests acquired by the acquiring company or acquiring companies as mentioned in subsection (2)(a) above, disregarding any part of that consideration which is small by comparison with the total, either consists of, or is applied in the acquisition of, or consists partly of and as to the balance is applied in the acquisition of, the interest or interests acquired by members of the A group as mentioned in subsection (2)(b) above;

and for the purposes of this subsection the value of an interest shall be determined as at the date of its acquisition.

[F90](5) . . . . . .

Textual Amendments

F88 Words in s. 181(1) substituted (with effect in accordance with Sch. 29 para. 28(2) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 28(1)(a)** (with Sch. 29 para. 46(5))

F89 Words in s. 181(1)(b) repealed (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 58, **Sch. 41 Pt. V(10)**

F90 S. 181(5) repealed (with effect in accordance with Sch. 29 para. 28(2), Sch. 40 Pt. II(12) Note 9 of the amending Act) by Finance Act 2000 (c. 17), Sch. 29 para. 28(1)(b), **Sch. 40 Pt. II(12)** (with Sch. 29 para. 46(5))

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

C6 Ss. 170-181 restricted (12.1.2000) by Greater London Authority Act 1999 (c. 29), **ss. 419(3)**, 425(2); S.I. 1999/3434, art. 2

C9 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

Restriction on indexation allowance for groups and associated companies

[F91]182 Disposals of debts.

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Textual Amendments

F91 Ss. 182-184 repealed (with effect in accordance with s. 93(11) of the amending Act) by Finance Act 1994 (c. 9), s. 93(7), **Sch. 26 Pt. V(8)** (with Sch. 12)

[F91]183 Disposals of shares.

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Textual Amendments

F91 Ss. 182-184 repealed (with effect in accordance with s. 93(11) of the amending Act) by Finance Act 1994 (c. 9), s. 93(7), **Sch. 26 Pt. V(8)** (with Sch. 12)

[F91]184 Definitions and other provisions supplemental to sections 182 and 183.

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Textual Amendments

F91 Ss. 182-184 repealed (with effect in accordance with s. 93(11) of the amending Act) by Finance Act 1994 (c. 9), s. 93(7), **Sch. 26 Pt. V(8)** (with Sch. 12)

[F92Restrictions on buying losses or gains etc

Textual Amendments

F92 Ss. 184A-184F and cross-heading inserted (with effect in accordance with s. 70(6)-(8) of the amending Act) by Finance Act 2006 (c. 25), **s. 70(2)** (with s. 70(10)-(11))

184A Restrictions on buying losses: tax avoidance schemes

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if—

(a) at any time ("the relevant time") there is a qualifying change of ownership in relation to a company ("the relevant company") (see section 184C),

(b) a loss (a "qualifying loss") accrues to the relevant company or any other company on a disposal of a pre-change asset (see subsection (3)),

(c) the change of ownership occurs directly or indirectly in consequence of, or otherwise in connection with, any arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage (see section 184D), and

(d) the advantage involves the deduction of a qualifying loss from any chargeable gains (whether or not it also involves anything else).

(2) A qualifying loss accruing to a company is not to be deductible from chargeable gains accruing to the company [F93]... .

(3) In this section a "pre-change asset" means an asset which was held by the relevant company before the relevant time (but see also sections 184E and 184F).

(4) In this section "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(5) For the purposes of this section it does not matter—

(a) whether a qualifying loss accrues before, after or at the relevant time,

(b) whether a qualifying loss accrues at a time when there are no chargeable gains from which it could be deducted (or could otherwise have been deducted), or

(c) whether the tax advantage is secured for the company to which a qualifying loss accrues or for any other company.

Textual Amendments

F93 Words in s. 184A(2) repealed (with effect in accordance with s. 32(7) of the amending Act) by Finance Act 2007 (c. 11), s. 32(2), **Sch. 27 Pt. 2(4)**

184B Restrictions on buying gains: tax avoidance schemes

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if—

(a) at any time ("the relevant time") there is a qualifying change of ownership in relation to a company ("the relevant company") (see section 184C),

(b) a gain (a "qualifying gain") accrues to the relevant company or any other company on a disposal of a pre-change asset (see subsection (3)),

(c) the change of ownership occurs directly or indirectly in consequence of, or otherwise in connection with, any arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage, and

(d) the advantage involves the deduction of a loss from a qualifying gain (whether or not it also involves anything else).

(2) In the case of a qualifying gain accruing to a company, a loss accruing to the company is not to be deductible from the gain [F94]... .

(3) In this section a "pre-change asset" means an asset which was held by the relevant company before the relevant time (but see also sections 184E and 184F).

(4) In this section "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(5) For the purposes of this section it does not matter—

(a) whether a qualifying gain accrues before, after or at the relevant time,

(b) whether a qualifying gain accrues at a time when there are no losses which could be deducted (or could otherwise have been deducted) from the gain, or

(c) whether the tax advantage is secured for the company to which a qualifying gain accrues or for any other company.

Textual Amendments

F94 Words in s. 184B(2) repealed (with effect in accordance with s. 32(8) of the amending Act) by Finance Act 2007 (c. 11), s. 32(3), **Sch. 27 Pt. 2(4)**

184C Sections 184A and 184B: meaning of "qualifying change of ownership"

(1) For the purposes of sections 184A and 184B, there is a qualifying change of ownership in relation to a company at any time if any one or more of the following occur at that time—

(a) the company joins a group of companies (see subsections (2) to (5)),

(b) the company ceases to be a member of a group of companies,

(c) the company becomes subject to different control (see subsections (6) to (9)).

(2) Whether a company is a member of a group of companies at any time is determined in accordance with section 170.

(3) But, apart from in the excepted case, nothing in section 170(10) or (10A) is to prevent all the companies of one group from being regarded as joining another group when the principal company of the first group becomes a member of the other group at any time.

(4) The excepted case is the case where—

(a) the persons owning the shares of the principal company of the first group immediately before that time are the same as the persons owning the shares of the principal company of the other group immediately after that time,

(b) the principal company of the other group was not the principal company of any group immediately before that time, and

(c) immediately after that time the principal company of the other group had assets consisting entirely (or almost entirely) of shares of the principal company of the first group.

(5) For this purpose, references to shares of a company are to the shares comprised in the issued share capital of the company.

(6) The general rule is that a company becomes subject to different control at any time if any one or more of the following occur—

(a) a person has control of the company at that time (whether alone or together with one or more others) and the person did not previously have control of the company,

(b) a person has control of the company at that time together with one or more others and the person previously had control of the company alone,

(c) a person ceases to have control of the company at that time (whether the person had control alone or together with one or more others).

(7) The general rule is subject to the following exceptions.

(8) A company does not become subject to different control in any case where it joins a group of companies and the case is the excepted case mentioned above.

(9) A company ("the subsidiary") does not become subject to different control at any time in any case where—

(a) immediately before that time the subsidiary is the 75 per cent. subsidiary of another company, and

(b) (although there is a change in the direct ownership of the subsidiary) that other company continues immediately after that time to own it as a 75 per cent. subsidiary.

184D Sections 184A and 184B: meaning of "tax advantage"

For the purposes of sections 184A and 184B, "tax advantage" means—

(a) relief or increased relief from corporation tax,

(b) repayment or increased repayment of corporation tax,

(c) the avoidance or reduction of a charge to corporation tax or an assessment to corporation tax, or

(d) the avoidance of a possible assessment to corporation tax.

184E Sections 184A and 184B: "pre-change assets": basic rules

(1) If—

(a) a company other than the relevant company makes a disposal of an asset, and

(b) the asset has been disposed of at any time after the relevant time by a disposal to which section 171(1) does not apply (a "non-section 171(1) transfer"),

the asset ceases to be regarded as a pre-change asset for the purposes of sections 184A and 184B (but see also subsections (10) and (11)).

(2) But (without affecting the generality of the provision made by the following subsection) if, on a non-section 171(1) transfer,—

(a) an asset would cease to be regarded as a pre-change asset as a result of subsection (1), and

(b) the company making the non-section 171(1) transfer retains any interest in or over the asset,

that interest is to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(3) If—

(a) the relevant company or any other company holds an asset ("the new asset") at or after the relevant time,

(b) the value of the new asset derives in whole or in part from a pre-change asset, and

(c) the new asset is not acquired by the company concerned as a result of a non-section 171(1) transfer,

the new asset is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(4) For this purpose the cases in which the value of an asset may be derived from any other asset include any case where—

(a) assets have been merged or divided,

(b) assets have changed their nature, or

(c) rights or interests in or over assets have been created or extinguished.

(5) If a pre-change asset is "the old asset" for the purposes of section 116 (reorganisations, conversions and reconstructions), "the new asset" for the purposes of that section is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(6) If a pre-change asset is the "original shares" for the purposes of sections 127 to 131 (reorganisation or reduction of share capital), the "new holding" for the purposes of those sections is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(7) The following subsection applies if, as a result of the application of a relevant deferral provision in the case of a disposal of a pre-change asset ("the original disposal"),—

(a) a gain or loss that would otherwise accrue to a company does not so accrue, or

(b) any part of any such gain is treated as forming part of a single chargeable gain which does not accrue to the company on the original disposal,

and a gain or loss does, wholly or partly in consequence of the application of that provision in the case of the original disposal, accrue to the company or any other company on a subsequent occasion.

(8) So much of the gain or loss accruing on the subsequent occasion as accrues in consequence of the application of the relevant deferral provision in the case of the original disposal is to be regarded for the purposes of sections 184A and 184B as accruing on a disposal of a pre-change asset (so far as it would not otherwise be so regarded).

(9) A "relevant deferral provision" means any of the following—

(a) section 139 (reconstruction involving transfer of business),

(b) section 140 (postponement of charge on transfer of assets to non-resident company),

(c) section 140A (transfer of a UK trade),

(d) section 140E (merger leaving assets within UK tax charge),

(e) sections 152 and 153 (replacement of business assets),

(f) section 187 (postponement of charge on deemed disposal under section 185).

(10) If—

(a) a pre-change asset of the relevant company is transferred to another company ("the transferee company"),

(b) any of sections 139, 140A and 140E apply to the companies in the case of the asset, and

(c) the transfer of the asset is made directly or indirectly in consequence of, or otherwise in connection with, the arrangements mentioned in section 184A or 184B,

the asset is to be regarded as a "pre-change asset" in the hands of the transferee company for the purposes of sections 184A and 184B.

(11) In such a case, subsection (1) applies as if the reference in paragraph (a) of that subsection to the relevant company were to the transferee company.

184F Sections 184A and 184B: "pre-change assets": pooling rules

(1) This section applies, in the case of any pre-change asset of the relevant company or any pre-change asset of any company which is acquired on a disposal to which section 171(1) applies, if—

(a) the pre-change asset consists of a holding of securities which falls as a result of any provision of Chapter 1 of Part 4 to be regarded as a single asset ("the pre-change pooled asset"), and

(b) as a result of any disposal or acquisition at any time after the relevant time, any securities ("the other securities") would (but for this section) be regarded as forming part of the pre-change pooled asset.

(2) None of the other securities are to be regarded for the purposes of this Act as forming part of the pre-change pooled asset.

(3) But this does not prevent the other securities from being regarded, as a result of any provision of that Chapter, as forming part of or constituting a different, single asset ("the other pooled asset").

(4) Securities of the same class as the other securities which are disposed of at or after the relevant time—

(a) are to be identified first with the other securities or securities forming part of the other pooled asset,

(b) are to be identified next with securities forming part of the pre-change pooled asset (if the number of securities disposed of exceeds the number identified in accordance with paragraph (a)), and

(c) subject to paragraphs (a) and (b), are to be identified in accordance with the provisions applicable apart from those paragraphs.

(5) The above identification rules apply even if some or all of the securities disposed of are otherwise identified—

(a) by the disposal, or

(b) by a transfer or delivery giving effect to it;

but where a company disposes of securities in one capacity, they are not to be identified with securities which it holds, or can dispose of, only in some other capacity.

(6) Chapter 1 of Part 4 has effect subject to this section.

(7) In this section—

"pre-change asset" means an asset which is pre-change asset for the purposes of section 184A or 184B,

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

(a) shares or securities of a company, and

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

(8) For the purposes of this section, shares or securities of a company are not to be treated as being of the same class unless—

(a) they are so treated by the practice of a recognised stock exchange, or

(b) they would be so treated if dealt with on a recognised stock exchange.**]**

[F95184GAvoidance involving losses: schemes converting income to capital

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if conditions A to D are satisfied.

(2) Condition A is that—

(a) any receipt arises to a company ("the relevant company") on a disposal of an asset, and

(b) the receipt arises directly or indirectly in consequence of, or otherwise in connection with, any arrangements.

(3) Condition B is that—

(a) a chargeable gain (the "relevant gain") accrues to the relevant company on the disposal, and

(b) losses accrue (or have accrued) to the relevant company on any other disposal of any asset (whether before or after or as part of the arrangements).

(4) Condition C is that, but for the arrangements, an amount would have fallen to be taken into account wholly or partly instead of the receipt in calculating the income chargeable to corporation tax—

(a) of the relevant company, or

(b) of a company which, at any qualifying time, is a member of the same group as the relevant company.

(5) Condition D is that—

(a) the main purpose of the arrangements, or

(b) one of the main purposes of the arrangements,

is to secure a tax advantage that involves the deduction of any of the losses from the relevant gain (whether or not it also involves anything else).

(6) If the Board consider, on reasonable grounds, that conditions A to D are or may be satisfied, they may give the relevant company a notice in respect of the arrangements (but see also section 184I).

(7) If, when the notice is given, conditions A to D are satisfied, no loss accruing to the relevant company at any time is to be deductible from the relevant gain.

(8) A notice under this section must—

(a) specify the arrangements,

(b) specify the accounting period in which the relevant gain accrues, and

(c) inform the relevant company of the effect of this section.

(9) If relevant gains accrue in more than one accounting period, a single notice under this section may specify all the accounting periods concerned.

(10) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"group", in relation to companies, means a group determined in accordance with section 170,

"qualifying time", in relation to any arrangements, means any time which falls in the period—

(a) beginning with the time at which the arrangements are made, and

(b) ending with the time at which the matters (other than any tax advantage) intended to be secured by the arrangements are secured,

"tax advantage" has the meaning given by section 184D.

Textual Amendments

F95 Ss. 184G-184I inserted (with effect in accordance with s. 71(4) of the amending Act) by Finance Act 2006 (c. 25), **s. 71(1)**

184H Avoidance involving losses: schemes securing deductions

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if conditions A to D are satisfied.

(2) Condition A is that—

(a) a chargeable gain (the "relevant gain") accrues to a company ("the relevant company") directly or indirectly in consequence of, or otherwise in connection with, any arrangements, and

(b) losses accrue (or have accrued) to the relevant company on any disposal of any asset (whether before or after or as part of the arrangements).

(3) Condition B is that the relevant company, or a company connected with the relevant company, incurs any expenditure—

(a) which is allowable as a deduction in calculating its total profits chargeable to corporation tax but which is not allowable as a deduction in computing its gains under section 38, and

(b) which is incurred directly or indirectly in consequence of, or otherwise in connection with, the arrangements.

(4) Condition C is that the main purpose, or one of the main purposes, of the arrangements is to secure a tax advantage that involves both—

(a) the deduction of the expenditure in calculating total profits, and

(b) the deduction of any of the losses from the relevant gain,

whether or not it also involves anything else.

(5) Condition D is that the arrangements are not excluded arrangements. For this purpose arrangements are excluded arrangements if—

(a) the arrangements are made in respect of land or any estate or interest in land,

(b) the arrangements fall within section 779(1) or (2) of the Taxes Act (sale and lease-back: limitation on tax reliefs),

(c) the person to whom the payment mentioned in that subsection is payable is not a company connected with the relevant company, and

(d) the arrangements are made between persons dealing at arm's length.

(6) If the Board consider, on reasonable grounds, that conditions A to D are or may be satisfied, they may give the company a notice in respect of the arrangements (but see also section 184I).

(7) If, when the notice is given, conditions A to D are satisfied, no loss accruing to the company at any time is to be deductible from the relevant gain.

(8) A notice under this section must—

(a) specify the arrangements,

(b) specify the accounting period in which the relevant gain accrues, and

(c) inform the relevant company of the effect of this section.

(9) If relevant gains accrue in more than one accounting period, a single notice under this section may specify all the accounting periods concerned.

(10) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"tax advantage" has the meaning given by section 184D.

(11) For the purposes of this section it does not matter whether the tax advantage is secured for the relevant company or for any other company.

Textual Amendments

F95 Ss. 184G-184I inserted (with effect in accordance with s. 71(4) of the amending Act) by Finance Act 2006 (c. 25), **s. 71(1)**

184I Notices under sections 184G and 184H

(1) Subsection (2) applies if—

(a) the Board give a notice under section 184G or 184H (a "relevant notice") to a company that specifies an accounting period, and

(b) the notice is given before the company has made its company tax return for that accounting period.

(2) If the company makes its return for that period before the end of the applicable 90 day period (see subsection (12)), it may—

(a) make a return that disregards the notice, and

(b) at any time after making the return and before the end of the applicable 90 day period, amend the return for the purpose of complying with the provision referred to in the notice.

(3) If a company has made a company tax return for an accounting period, the Board may give the company a relevant notice in relation to that period only if a notice of enquiry has been given to the company in respect of its return for that period.

(4) After any enquiries into the return for that period have been completed, the Board may give the company a relevant notice only if requirements A and B are met.

(5) Requirement A is that at the time the enquiries into the return were completed, the Board could not have been reasonably expected, on the basis of information made available—

(a) to them before that time, or

(b) to an officer of theirs before that time,

to have been aware that the circumstances were such that a relevant notice could have been given to the company in relation to that period.

(6) For the purposes of requirement A, paragraph 44(2) and (3) of Schedule 18 to the Finance Act 1998 (information made available) applies as it applies for the purposes of paragraph 44(1).

(7) Requirement B is that—

(a) the company or any other person was requested to produce or provide information during an enquiry into the return for that period, and

(b) if the request had been duly complied with, the Board could reasonably have been expected to give the company a relevant notice in relation to that period.

(8) If—

(a) a company makes a company tax return for an accounting period, and

(b) the company is subsequently given a relevant notice that specifies that period,

it may amend the return for the purpose of complying with the provision referred to in the notice at any time before the end of the applicable 90 day period.

(9) If the relevant notice is given to the company after it has been given a notice of enquiry in respect of its return for the period, no closure notice may be given in relation to its company tax return until—

(a) the end of the applicable 90 day period, or

(b) the earlier amendment of its company tax return for the purpose of complying with the provision referred to in the notice.

(10) If the relevant notice is given to the company after any enquiries into the return for the period are completed, no discovery assessment may be made as regards the chargeable gain to which the notice relates until—

(a) the end of the applicable 90 day period, or

(b) the earlier amendment of the company tax return for the purpose of complying with the provision referred to in the notice.

(11) Subsections (2)(b) and (8) do not prevent a company tax return for a period becoming incorrect if—

(a) a relevant notice is given to the company in relation to that period,

(b) the return is not amended in accordance with subsection (2)(b) or (8) for the purpose of complying with the provision referred to in the notice, and

(c) the return ought to have been so amended.

(12) In this section—

"the applicable 90 day period", in relation to a relevant notice, means the period of 90 days beginning with the day on which the notice is given,

"closure notice" means a notice under paragraph 32 of Schedule 18 to the Finance Act 1998,

"company tax return" means the return required to be delivered pursuant to a notice under paragraph 3 of that Schedule, as read with paragraph 4 of that Schedule,

"discovery assessment" means an assessment under paragraph 41 of that Schedule,

"notice of enquiry" means a notice under paragraph 24 of that Schedule.**]**

Textual Amendments

F95 Ss. 184G-184I inserted (with effect in accordance with s. 71(4) of the amending Act) by Finance Act 2006 (c. 25), **s. 71(1)**

Non-resident and dual resident companies

185 Deemed disposal of assets on company ceasing to be resident in U.K.

(1) This section and section 187 apply to a company if, at any time ("the relevant time"), the company ceases to be resident in the United Kingdom.

(2) The company shall be deemed for all purposes of this Act—

(a) to have disposed of all its assets, other than assets excepted from this subsection by subsection (4) below, immediately before the relevant time; and

(b) immediately to have reacquired them,

at their market value at that time.

(3) Section 152 shall not apply where the company—

(a) has disposed of the old assets, or of its interest in those assets, before the relevant time; and

(b) acquires the new assets, or its interest in those assets, after that time,

unless the new assets are excepted from this subsection by subsection (4) below.

(4) If at any time after the relevant time the company carries on a trade in the United Kingdom through a **[**F96permanent establishment**]**—

(a) any assets which, immediately after the relevant time, are situated in the United Kingdom and are used in or for the purposes of the trade, or are used or held for the purposes of the **[**F96permanent establishment**]**, shall be excepted from subsection (2) above; and

(b) any new assets which, after that time, are so situated and are so used or so held shall be excepted from subsection (3) above;

and references in this subsection to assets situated in the United Kingdom include references to exploration or exploitation assets and to exploration or exploitation rights.

(5) In this section—

(a) "designated area", "exploration or exploitation activities" and "exploration or exploitation rights" have the same meanings as in section 276;

(b) "exploration or exploitation assets" means assets used or intended for use in connection with exploration or exploitation activities carried on in the United Kingdom or a designated area;

(c) "the old assets" and "the new assets" have the same meanings as in section 152;

and a company shall not be regarded for the purposes of this section as ceasing to be resident in the United Kingdom by reason only that it ceases to exist.

Textual Amendments

F96 Words in s. 185(4) substituted (with effect in accordance with s. 153(4) of the amending Act) by Finance Act 2003 (c. 14), **s. 153(1)(b)**

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

C55 S. 185 excluded (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **3(4)**

F97 186 Deemed disposal of assets on company ceasing to be liable to U.K. taxation.

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Textual Amendments

F97 S. 186 repealed (with effect in accordance with s. 251(1)(a)(9) of the amending Act) by Finance Act 1994 (c. 9), s. 251(9), **Sch. 26 Pt. VIII(1)**

187 Postponement of charge on deemed disposal under section 185 or 186.

(1) If—

(a) immediately after the relevant time, a company to which this section applies by virtue of section 185 F98... ("the company") is a 75 per cent. subsidiary of another company ("the principal company") which is resident in the United Kingdom; and

(b) the principal company and the company so elect, by notice given to the inspector within 2 years after that time,

this Act shall have effect in accordance with the following provisions.

(2) Any allowable losses accruing to the company on a deemed disposal of foreign assets shall be set off against the chargeable gains so accruing and—

(a) that disposal shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses; and

(b) the whole of that gain shall be treated as not accruing to the company on that disposal but an equivalent amount ("the postponed gain") shall be brought into account in accordance with subsections (3) and (4) below.

(3) If at any time within 6 years after the relevant time the company disposes of any assets ("relevant assets") the chargeable gains on which were taken into account in arriving at the postponed gain, there shall be deemed to accrue to the principal company as a chargeable gain on that occasion the whole or the appropriate proportion of the postponed gain so far as not already taken into account under this subsection or subsection (4) below.

In this subsection "the appropriate proportion" means the proportion which the chargeable gain taken into account in arriving at the postponed gain in respect of the part of the relevant assets disposed of bears to the aggregate of the chargeable gains so

taken into account in respect of the relevant assets held immediately before the time of the disposal.

(4) If at any time after the relevant time—

(a) the company ceases to be a 75 per cent. subsidiary of the principal company on the disposal by the principal company of ordinary shares of the company;

(b) after the company has ceased to be such a subsidiary otherwise than on such a disposal, the principal company disposes of such shares; or

(c) the principal company ceases to be resident in the United Kingdom,

there shall be deemed to accrue to the principal company as a chargeable gain on that occasion the whole of the postponed gain so far as not already taken into account under this subsection or subsection (3) above.

(5) If at any time—

(a) the company has allowable losses which have not been allowed as a deduction from chargeable gains; and

(b) a chargeable gain accrues to the principal company under subsection (3) or (4) above,

then, if and to the extent that the principal company and the company so elect by notice given to the inspector within 2 years after that time, those losses shall be allowed as a deduction from that gain.

(6) In this section—

"deemed disposal" means a disposal which, by virtue of section 185(2) [F99]... is deemed to have been made;

"foreign assets" means any assets of the company which, immediately after the relevant time, are situated outside the United Kingdom and are used in or for the purposes of a trade carried on outside the United Kingdom;

"ordinary share" means a share in the ordinary share capital of the company;

"the relevant time" has the meaning given by section 185(1) [F99]... .

(7) For the purposes of this section a company is a 75 per cent. subsidiary of another company if and so long as not less than 75 per cent. of its ordinary share capital is owned directly by that other company.

Textual Amendments

F98 Words in s. 187(1)(a) repealed (with effect in accordance with s. 251(1)(a)(9) of the amending Act) by Finance Act 1994 (c. 9), s. 251(9)(a), **Sch. 26 Pt. VIII(1)**

F99 Words in s. 187(6) repealed (with effect in accordance with s. 251(1)(a)(9) of the amending Act) by Finance Act 1994 (c. 9), s. 251(9)(b), **Sch. 26 Pt. VIII(1)**

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

188 Dual resident companies: deemed disposal of certain assets.

F100

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Textual Amendments

F100 S. 188 repealed (retrospective to 30.11.1993) by Finance Act 1994 (c. 9), s. 251(1)(a)(10), **Sch. 26 Pt. 8(1)**

Recovery of tax otherwise than from tax-payer company

189 Capital distribution of chargeable gains: recovery of tax from shareholder.

(1) This section applies where a person who is connected with a company resident in the United Kingdom receives or becomes entitled to receive in respect of shares in the company any capital distribution from the company, other than a capital distribution representing a reduction of capital, and—

(a) the capital so distributed derives from the disposal of assets in respect of which a chargeable gain accrued to the company; or

(b) the distribution constitutes such a disposal of assets;

and that person is referred to below as "the shareholder".

(2) If the corporation tax assessed on the company for the accounting period in which the chargeable gain accrues included any amount in respect of chargeable gains, and any of the tax assessed on the company for that period is not paid within 6 months from the date determined under subsection (3) below, the shareholder may by an assessment made within 2 years from that date be assessed and charged (in the name of the company) to an amount of that corporation tax—

(a) not exceeding the amount or value of the capital distribution which the shareholder has received or become entitled to receive; and

(b) not exceeding a proportion equal to the shareholder's share of the capital distribution made by the company of corporation tax on the amount of that gain at the rate in force when the gain accrued.

(3) The date referred to in subsection (2) above is whichever is the later of—

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

(b) the date when the assessment was made on the company.

(4) Where the shareholder pays any amount of tax under this section, he shall be entitled to recover from the company a sum equal to that amount together with any interest paid by him under section 87A of the Management Act on that amount.

(5) The provisions of this section are without prejudice to any liability of the shareholder in respect of a chargeable gain accruing to him by reference to the capital distribution as constituting a disposal of an interest in shares in the company.

(6) With respect to chargeable gains accruing in accounting periods ending on or before such day as the Treasury may be order appoint this section shall have effect—

(a) with the substitution for the words in subsection (3) after "above" of the words " is the date when the tax becomes payable by the company "; and

(b) with the omission of the words in subsection (4) from "together" to the end of the subsection.

(7) In this section "capital distribution" has the same meaning as in section 122.

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

Commencement Information

I2 S. 189: 30.9.1993 appointed for the purposes of s. 189 by S.I. 1992/3066, **art. 2(2)(d)**

[F101 190 Tax recoverable from another group company or controlling director.

(1) This section applies where—

(a) a chargeable gain has accrued to a company ("the taxpayer company"),

(b) the condition in subsection (2) below is met, and

(c) the whole or part of the corporation tax assessed on the company for the accounting period in which the gain accrued ("the relevant accounting period") is unpaid at the end of the period of six months after it became payable.

(2) The condition referred to in subsection (1)(b) above is—

(a) that the taxpayer company is resident in the United Kingdom at the time when the gain accrued, or

(b) that the gain forms part of the taxpayer company's chargeable profits for corporation tax purposes by virtue of section **[**F102 10B**]**.

(3) The following persons may, by notice under this section, be required to pay the unpaid tax—

(a) if the taxpayer company was a member of a group at the time when the gain accrued—

(i) a company which was at that time the principal company of the group, and

(ii) any other company which in any part of the period of twelve months ending with that time was a member of that group and owned the asset disposed of, or any part of it, or where that asset is an interest or right in or over another asset, owned either asset or any part of either asset; and

(b) if the gain forms part of the chargeable profits of the taxpayer company for corporation tax purposes by virtue of section **[**F103 10B**]**, any person who is, or during the period of twelve months ending with the time when the gain accrued was, a controlling director of the taxpayer company or of a company which has, or within that period had, control over the taxpayer company.

(4) The Board may serve a notice on a person within subsection (3) above requiring him, within 30 days of the service of the notice, to pay—

(a) the amount which remains unpaid of the corporation tax assessed on the taxpayer company for the relevant accounting period, or

(b) if less, an amount equal to corporation tax on the amount of the chargeable gain at the rate in force when the gain accrued.

(5) The notice must state—

(a) the amount of corporation tax assessed on the taxpayer company for the relevant accounting period that remains unpaid,

(b) the date when it first became payable, and

(c) the amount required to be paid by the person on whom the notice is served.

(6) The notice has effect—

(a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and

(b) for the purposes of appeals,

as if it were a notice of assessment and that amount were an amount of tax due from that person.

(7) Any notice under this section must be served before the end of the period of three years beginning with the date on which the liability of the taxpayer company to corporation tax for the relevant accounting period is finally determined.

(8) Where the unpaid tax is charged in consequence of a determination under paragraph 36 or 37 of Schedule 18 to the Finance Act 1998 (determination where no return delivered or return incomplete), the date mentioned in subsection (7) above shall be taken to be the date on which the determination was made.

(9) Where the unpaid tax is charged in a self-assessment, including a self-assessment that supersedes a determination (see paragraph 40 of Schedule 18 to the Finance Act 1998), the date mentioned in subsection (7) above shall be taken to be the latest of—

(a) the last date on which notice of enquiry may be given into the return containing the self-assessment;

(b) if notice of enquiry is given, 30 days after the enquiry is completed;

(c) if more than one notice of enquiry is given, 30 days after the last notice of completion;

(d) if after such an enquiry the Inland Revenue amend the return, 30 days after notice of the amendment is issued;

(e) if an appeal is brought against such an amendment, 30 days after the appeal is finally determined.

(10) If the unpaid tax is charged in a discovery assessment, the date mentioned in subsection (7) above shall be taken to be—

(a) where there is no appeal against the assessment, the date when the tax becomes due and payable;

(b) where there is such an appeal, the date on which the appeal is finally determined.

(11) A person who has paid an amount in pursuance of a notice under this section may recover that amount from the taxpayer company.

(12) A payment in pursuance of a notice under this section is not allowed as a deduction in computing any income, profits or losses for any tax purposes.

(13) In this section—

"director", in relation to a company, has the meaning given by section 168(8) of the Taxes Act (read with subsection (9) of that section) and includes any person falling within section 417(5) of that Act (read with subsection (6) of that section);

"controlling director", in relation to a company, means a director of the company who has control of it (construing control in accordance with section 416 of the Taxes Act);

"group" and "principal company" have the meaning which would be given by section 170 if in that section for references to 75 per cent. subsidiaries there were substituted references to 51 per cent. subsidiaries.**]**

Textual Amendments

F101 S. 190 substituted for ss. 190, 191 (with effect in accordance with Sch. 29 para. 9(3) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 9(1)** (with Sch. 29 paras. 9(4), 46(5))

F102 Word in s. 190(2)(b) substituted (with effect in accordance with s. 155(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 27 para. 2(3)**

F103 Word in s. 190(3)(b) substituted (with effect in accordance with s. 155(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 27 para. 2(3)**

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

Demergers

192 Tax exempt distributions.

(1) This section has effect for facilitating certain transactions whereby trading activities carried on by a single company or group are divided so as to be carried on by 2 or more companies not belonging to the same group or by 2 or more independent groups.

(2) Where a company makes an exempt distribution which falls within section 213(3)(a) of the Taxes Act—

(a) the distribution shall not be a capital distribution for the purposes of section 122; and

(b) sections 126 to 130 shall, with the necessary modifications, apply as if that company and the subsidiary whose shares are transferred were the same company and the distribution were a reorganisation of its share capital.

(3) Subject to subsection (4) below, **[**F104section 179 shall not**]** apply in a case where a company ceases to be a member of a group by reason only of an exempt distribution.

(4) Subsection (3) does not apply if within 5 years after the making of the exempt distribution there is chargeable payment; and the time for making an assessment under section F105... 179 by virtue of this subsection shall not expire before the end of 3 years after the making of the chargeable payment.

(5) In this section—

"chargeable payment" has the meaning given in section 214(2) of the Taxes Act;

"exempt distribution" means a distribution which is exempt by virtue of section 213(2) of that Act; and

"group" means a company which has one or more 75 per cent. subsidiaries together with that or those subsidiaries.

(6) In determining for the purposes of this section whether one company is a 75 per cent. subsidiary of another, the other company shall be treated as not being the owner of—

(a) any share capital which it owns directly in a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade; or

(b) any share capital which it owns indirectly and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt.

Textual Amendments

F104 Words in s. 192(3) substituted (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 29 para. 29** (with Sch. 29 para. 46(5))

F105 Words in s. 192(4) repealed (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 40 Pt. II(12)**

Modifications etc. (not altering text)

C5 Ss. 170-192 restricted (27.7.1999) by Commonwealth Development Corporation Act 1999 (c. 20), Sch. 3 paras. 1, **4(1)**

[F106 Disposals by companies with substantial shareholding

Textual Amendments

F106 S. 192A and cross-heading inserted (with application in accordance with s. 44(3) of the amending Act) by Finance Act 2002 (c. 23), **s. 44(1)**

192A Exemptions for gains or losses on disposal of shares etc

Schedule 7AC (exemptions for disposal of shares etc by companies with substantial shareholding) has effect.**]**

CHAPTER II

OIL AND MINING INDUSTRIES

Oil exploration and exploitation

F107 193 Roll-over relief not available for gains on oil licences.

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Textual Amendments

F107 S. 193 repealed (with effect in accordance with s. 103(2) of the amending Act) by Finance Act 1999 (c. 16), s. 103(1), **Sch. 20 Pt. IV(2)**

194 Disposals of oil licences relating to undeveloped areas.

(1) In this section any reference to a disposal (including a part disposal) is a reference to a disposal made by way of a bargain at arm's length.

(2) If, at the time of the disposal, the licence relates to an undeveloped area, then, to the extent that the consideration for the disposal consists of—

(a) another licence which at that time relates to an undeveloped area or an interest in another such licence, or

(b) an obligation to undertake exploration work or appraisal work in an area which is or forms part of the licensed area in relation to the licence disposed of,

the value of that consideration shall be treated as nil for the purposes of this Act.

(3) If the disposal of a licence which, at the time of the disposal, relates to an undeveloped area is part of a larger transaction under which one party makes to another disposals of 2 or more licences, each of which at the time of the disposal relates to an undeveloped area, the reference in subsection (2)(b) above to the licensed area in relation to the licence disposed of shall be construed as a reference to the totality of the licensed areas in relation to those 2 or more licences.

(4) In relation to a disposal of a licence which, at the time of the disposal, relates to an undeveloped area, being a disposal—

(a) which is a part disposal of the licence in question, and

(b) part but not the whole of the consideration for which falls within paragraph (a) or paragraph (b) of subsection (2) above,

section 42 shall not apply unless the amount or value of the part of the consideration which does not fall within one of those paragraphs is less than the aggregate of the amounts which, if the disposal were a disposal of the whole of the licence rather than a part disposal, would be—

(i) the relevant allowable expenditure, as defined in section 53; and

(ii) the indexation allowance on the disposal.

(5) Where section 42 has effect in relation to such a disposal as is referred to in subsection (4) above, it shall have effect as if, for subsection (2) thereof, there were substituted the following subsection—

"(2) The apportionment shall be made by reference to—

(a) the amount or value of the consideration for the disposal on the one hand (call that amount or value A), and

(b) the aggregate referred to in section 194(4) on the other hand (call that aggregate C),

and the fraction of the said sums allowable as a deduction in computing the amount of the gain (if any) accruing on the disposal shall be—

$$\frac{A}{C}$$

and the remainder shall be attributed to the part of the property which remains undisposed of."

195 Allowance of certain drilling expenditure etc.

(1) On the disposal of a licence, relevant qualifying expenditure incurred by the person making the disposal—

(a) in searching for oil anywhere in the licensed area, or

(b) in ascertaining the extent or characteristics of any oil-bearing area the whole or part of which lies in the licensed area or what the reserves of oil of any such oil-bearing area are,

shall be treated as expenditure falling within section 38(1)(b).

(2) Expenditure incurred as mentioned in subsection (1) above is relevant expenditure if, and only if—

(a) it is expenditure of a capital nature on **[**F108research and development**]**; and

[F109(b) either it is expenditure in respect of which the person was entitled to an allowance under section 441 of the Capital Allowances Act (research and development allowances) for a relevant chargeable period which began before the date of the disposal or it would have been such expenditure if the trading condition had been fulfilled, and

(c) on the disposal, section 443 of that Act (disposal values) applies in relation to the expenditure or would apply if the trading condition had been fulfilled (and the expenditure had accordingly been qualifying expenditure under Part 6 of that Act).**]**

(3) In subsection (2) above and subsection (4) below, the expression "if the trading condition had been fulfilled" means, in relation to expenditure of a capital nature on **[**F108research and development**]**, if, after the expenditure was incurred but before the disposal concerned was made, the person incurring the expenditure had set up and commenced a trade connected with that research **[**F110and development**]**; and in subsection (2)(b) above—

"relevant chargeable period" has the same meaning as in **[**F111section 441 of the Capital Allowances Act**]**; F112...

F112 . . . . . .

(4) Relevant expenditure is qualifying expenditure only to the extent that it does not exceed the **[**F113disposal value**]** which, by reason of the disposal—

[F114(a) is required to be brought into account under section 443 of the Capital Allowances Act; or

(b) would be required to be so brought into account if the trading condition had been fulfilled (and the expenditure had accordingly been qualifying expenditure under Part 6 of that Act).**]**

F115(5) . . . . . .

(6) Where, on the disposal of a licence, subsection (1) above has effect in relation to any relevant qualifying expenditure **[**F116in respect of which the person had not in fact been entitled to an allowance**]** as mentioned in subsection (2)(b) above—

(a) no allowance shall be made in respect of that expenditure under **[**F117section 441 of the Capital Allowances Act**]**; F118...

F118(b) . . . . . .

(7) Where, on the disposal of a licence which is a part disposal, subsection (1) above has effect in relation to any relevant qualifying expenditure, then, for the purposes of section 42, that expenditure shall be treated as wholly attributable to what is disposed of (and, accordingly, shall not be apportioned as mentioned in that section).

[F119(8) In this section "research and development" has the same meaning as in **[**F120Part 6 of the Capital Allowances Act (research and development allowances)**]**.**]**

Textual Amendments

F108 Words in s. 195(2)(3) substituted (with effect in accordance with s. 68(2) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 19 para. 12(2)**

F109 S. 195(2)(b)(c) substituted (22.3.2001) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 79(1)**

F110 Words in s. 195(3) inserted (with effect in accordance with s. 68(2) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 19 para. 12(3)**

F111 Words in s. 195(3) substituted (22.3.2001) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 79(2)(a)**

F112 Words in s. 195(3) repealed (22.3.2001) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 79(2)(b), **Sch. 4**

F113 Words in s. 195(4) substituted (22.3.2001) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 79(3)**

F114 S. 195(4)(a)(b) substituted (22.3.2001) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 79(3)**

F115 S. 195(5) repealed (22.3.2001) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 79(4), **Sch. 4**

F116 Words in s. 195(6) substituted (22.3.2001) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 79(5)(a)**

F117 Words in s. 195(6)(a) substituted (22.3.2001) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 79(5)(b)**

F118 S. 195(6)(b) and preceding word omitted (22.3.2001) by virtue of Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 79(5)(c)**

F119 S. 195(8) inserted (with effect in accordance with s. 68(2) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 19 para. 12(4)**

F120 Words in s. 195(8) substituted (22.3.2001) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 79(6)**

196 Interpretation of sections 194 and 195.

(1) For the purposes of section 194, a **[**F121UK licence**]** relates to an undeveloped area at any time if—

(a) for no part of the licensed area has consent for development been granted to the licensee by the Secretary of State on or before that time; and

(b) for no part of the licensed area has a programme of development been served on the licensee or approved by the Secretary of State on or before that time.

[F122(1A) For the purposes of section 194 a licence other than a UK licence relates to an undeveloped area at any time if, at that time—

(a) no development has actually taken place in any part of the licensed area; and

(b) no condition for the carrying out of development anywhere in that area has been satisfied—

(i) by the grant of any consent by the authorities of a country or territory exercising jurisdiction in relation to the area; or

(ii) by the approval or service on the licensee, by any such authorities, of any programme of development.**]**

(2) Subsections (4) and (5) of section 36 of the M6Finance Act 1983 (meaning of "development") shall have effect in relation to **[**F123subsections (1) and (1A) above**]** as they have effect in relation to subsection (2) of that section.

(3) In relation to a licence under the M7Petroleum (Production) Act (Northern Ireland) 1964 any reference in subsection (1) above to the Secretary of State shall be construed as a reference to the Department of Economic Development.

(4) In relation to a disposal to which section 194 applies of a licence under which the buyer acquires an interest in the licence only so far as it relates to part of the licensed area, any reference in subsection (1) or subsection (3) of that section or subsection (1) above to the licensed area shall be construed as a reference only to that part of the licensed area to which the buyer's acquisition relates.

[F124(5) In sections 194 and 195 and this section—

"foreign oil concession" means any right to search for or win overseas petroleum, being a right conferred or exercisable (whether or not by virtue of a licence) in relation to a particular area;

"interest" in relation to a licence, includes, where there is an agreement which—

(a) relates to oil from the whole or any part of the licensed area, and

(b) was made before the extraction of the oil to which it relates,

any entitlement under that agreement to, or to a share of, either that oil or the proceeds of its sale;

"licence" means any UK licence or foreign oil concession;

"licensed area" (subject to subsection (4) above)—

(a) in relation to a UK licence, has the same meaning as in Part I of the M8Oil Taxation Act 1975; and

(b) in relation to a foreign oil concession, means the area to which the concession applies;

"licensee"—

(a) in relation to a UK licence, has the same meaning as in Part I of the Oil Taxation Act 1975; and

(b) in relation to a foreign oil concession, means the person with the concession or any person having an interest in it;

"oil"—

(a) except in relation to a UK licence, means any petroleum (within the meaning of **[**F125Part I of the Petroleum Act 1998**]**); and

(b) in relation to such a licence, has the same meaning as in Part I of the Oil Taxation Act 1975;

"overseas petroleum" means any oil that exists in its natural condition at a place to which neither **[**F125Part I of the Petroleum Act 1998**]** nor the M9Petroleum (Production) Act (Northern Ireland) 1964 applies; and

"UK licence" means a licence within the meaning of Part I of the M10Oil Taxation Act 1975.

(5A) References in sections 194 and 195 to a part disposal of a licence shall include references to the disposal of any interest in a licence.**]**

(6) In section 194—

(a) "exploration work", in relation to any area, means work carried out for the purpose of searching for oil anywhere in that area;

(b) "appraisal work", in relation to any area, means work carried out for the purpose of ascertaining the extent or characteristics of any oil-bearing area the whole or part of which lies in the area concerned or what the reserves of oil of any such oil-bearing area are.

Textual Amendments

F121 Words in s. 196(1) substituted (with effect in accordance with s. 181(4) of the amending Act) by Finance Act 1996 (c. 8), **s. 181(1)**

F122 S. 196(1A) inserted (with effect in accordance with s. 181(4) of the amending Act) by Finance Act 1996 (c. 8), **s. 181(2)**

F123 Words in s. 196(2) substituted (with effect in accordance with s. 181(4) of the amending Act) by Finance Act 1996 (c. 8), **s. 181(2)**

F124 S. 196(5)(5A) substituted for s. 196(5) (retrospectively and with effect in accordance with s. 181(4)(5) of the amending Act) by Finance Act 1996 (c. 8), **s. 181(3)**

F125 Words in s. 196(5) substituted (15.2.1999) by Petroleum Act 1998 (c. 17), s. 52(4), **Sch. 4 para. 32(3)** (with Sch. 3); S.I. 1999/161, art. 2(1)

Marginal Citations

M6 1983 c. 28.

M7 1964 c. 28 (N.I.).

M8 1975 c. 22.

M9 1964 c. 28 (N.I.).

M10 1975 c. 22.

197 Disposals of interests in oil fields etc: ring fence provisions.

(1) This section applies where in pursuance of a transfer by a participator in an oil field of the whole or part of his interest in the field, there is—

(a) a disposal of an interest in oil to be won from the oil field; or

(b) a disposal of an asset used in connection with the field;

and section 12 of the [M11]Oil Taxation Act 1975 (interpretation of Part I of that Act) applies for the interpretation of this subsection and the reference to the transfer by a participator in an oil field of the whole or part of his interest in the field shall be construed in accordance with paragraph 1 of Schedule 17 to the [M12]Finance Act 1980.

(2) In this section "material disposal" means—

(a) a disposal falling within paragraph (a) or paragraph (b) of subsection (1) above; or

(b) the sale of an asset referred to in section [F126]... 179(3) where the asset was acquired by the chargeable company (within the meaning of that section) on a disposal falling within one of those paragraphs.

(3) For any chargeable period in which a chargeable gain or allowable loss accrues to any person ("the chargeable person") on a material disposal (whether taking place in that period or not), subject to subsection (6) below there shall be aggregated—

(a) the chargeable gains accruing to him in that period on such disposals, and

(b) the allowable losses accruing to him in that period on such disposals,

and the lesser of the 2 aggregates shall be deducted from the other to give an aggregate gain or, as the case may be, an aggregate loss for that chargeable period.

(4) For the purposes of tax in respect of chargeable gains—

(a) the several chargeable gains and allowable losses falling within paragraphs (a) and (b) of subsection (3) above shall be left out of account; and

(b) the aggregate gain or aggregate loss referred to in that subsection shall be treated as a single chargeable gain or allowable loss accruing to the chargeable

person in the chargeable period concerned on the notional disposal of an asset; and

(c) if in any chargeable period there is an aggregate loss, then, except as provided by subsection (5) below, it shall not be allowable as a deduction against any chargeable gain arising in that or any later period, other than an aggregate gain treated as accruing in a later period by virtue of paragraph (b) above (so that the aggregate gain of that later period shall be reduced or extinguished accordingly); and

(d) if in any chargeable period there is an aggregate gain, no loss shall be deducted from it except in accordance with paragraph (c) above; and

(e) without prejudice to any indexation allowance which was taken into account in determining an aggregate gain or aggregate loss under subsection (3) above, no further indexation allowance shall be allowed on a notional disposal referred to in paragraph (b) above.

(5) In any case where—

(a) by virtue of subsection (4)(b) above, an aggregate loss is treated as accruing to the chargeable person in any chargeable period, and

(b) before the expiry of the period of 2 years beginning at the end of the chargeable period concerned, the chargeable person makes a claim under this subsection,

the whole, or such portion as is specified in the claim, of the aggregate loss shall be treated for the purposes of this Act as an allowable loss arising in that chargeable period otherwise than on a material disposal.

(6) In any case where a loss accrues to the chargeable person on a material disposal made to a person who is connected with him—

(a) the loss shall be excluded from those referred to in paragraph (b) of subsection (3) above and, accordingly, shall not be aggregated under that subsection; and

(b) except as provided by subsection (7) below, section 18 shall apply in relation to the loss as if, in subsection (3) of that section, any reference to a disposal were a reference to a disposal which is a material disposal; and

(c) to the extent that the loss is set against a chargeable gain by virtue of paragraph (b) above, the gain shall be excluded from those referred to in paragraph (a) of subsection (3) above and, accordingly, shall not be aggregated under that subsection.

(7) In any case where—

(a) the losses accruing to the chargeable person in any chargeable period on material disposals to a connected person exceed the gains accruing to him in that chargeable period on material disposals made to that person at a time when they are connected persons, and

(b) before the expiry of the period of 2 years beginning at the end of the chargeable period concerned, the chargeable person makes a claim under this subsection,

the whole, or such part as is specified in the claim, of the excess referred to in paragraph (a) above shall be treated for the purposes of section 18 as if it were a loss accruing on a disposal in that chargeable period, being a disposal which is not a material disposal and which is made by the chargeable person to the connected person referred to in paragraph (a) above.

(8) Where a claim is made under subsection (5) or subsection (7) above, all such adjustments shall be made whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the operation of that subsection.

Textual Amendments

F126 Words in s. 197(2)(b) repealed (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 40 Pt. II(12)**

Marginal Citations

M11 1975 c. 22.

M12 1980 c. 48.

198 Replacement of business assets used in connection with oil fields.

(1) If the consideration which a person obtains on a material disposal is applied, in whole or in part, as mentioned in subsection (1) of section 152 or 153, that section shall not apply unless the new assets are taken into use, and used only, for the purposes of the ring fence trade.

(2) Subsection (1) above has effect notwithstanding subsection (8) of section 152.

(3) Where section 152 or 153 applies in relation to any of the consideration on a material disposal, the asset which constitutes the new assets for the purposes of that section shall be conclusively presumed to be a depreciating asset, and section 154 shall have effect accordingly, except that—

(a) the reference in subsection (2)(b) of that section to a trade carried on by the claimant shall be construed as a reference solely to his ring fence trade; and

(b) subsections (4) to (7) of that section shall be omitted.

(4) In any case where sections 152 to 154 have effect in accordance with subsections (1) to (3) above, the operation of section 175 shall be modified as follows—

(a) only those members of a group which actually carry on a ring fence trade shall be treated for the purposes of those sections as carrying on a single trade which is a ring fence trade; and

(b) only those activities which, in relation to each individual member of the group, constitute its ring fence trade shall be treated as forming part of that single trade.

(5) In this section—

(a) "material disposal" has the meaning assigned to it by section 197; and

(b) "ring fence trade" means a trade consisting of either or both of the activities mentioned in paragraphs (a) and (b) of subsection (1) of section 492 of the Taxes Act **[**F127or defined as "oil-related activities" in section 16(2) of ITTOIA 2005**]**.

Textual Amendments

F127 Words in s. 198(5)(b) 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. 440** (with Sch. 2)

199 Exploration or exploitation assets: deemed disposals

(1) Where an exploration or exploitation asset which is a mobile asset ceases to be chargeable in relation to a person by virtue of ceasing to be dedicated to an oil field in which he, or a person connected with him, is or has been a participator, he shall be deemed for all purposes of this Act—

(a) to have disposed of the asset immediately before the time when it ceased to be so dedicated, and

(b) immediately to have reacquired it,

at its market value at that time.

(2) Where a person who is not resident and not ordinarily resident in the United Kingdom ceases to carry on a trade in the United Kingdom through a branch or agency, he shall be deemed for all purposes of this Act—

(a) to have disposed immediately before the time when he ceased to carry on the trade in the United Kingdom through a branch or agency of every asset to which subsection (3) below applies, and

(b) immediately to have reacquired every such asset,

at its market value at that time.

(3) This subsection applies to any exploration or exploitation asset, other than a mobile asset, used in or for the purposes of the trade at or before the time of the deemed disposal.

(4) A person shall not be deemed by subsection (2) above to have disposed of an asset if, immediately after the time when he ceases to carry on the trade in the United Kingdom through a branch or agency, the asset is used in or for the purposes of exploration or exploitation activities carried on by him in the United Kingdom or a designated area.

(5) Where in a case to which subsection (4) above applies the person ceases to use the asset in or for the purposes of exploration or exploitation activities carried on by him in the United Kingdom or a designated area, he shall be deemed for all purposes of this Act—

(a) to have disposed of the asset immediately before the time when he ceased to use it in or for the purposes of such activities, and

(b) immediately to have reacquired it,

at its market value at that time.

(6) For the purposes of this section an asset is at any time a chargeable asset in relation to a person if, were it to be disposed of at that time, any chargeable gains accruing to him on the disposal—

(a) would be gains in respect of which he would be chargeable to capital gains tax under section 10(1), or

(b) would form part of his chargeable profits for corporation tax purposes by virtue of section **[**F128 10B**]**.

(7) In this section—

(a) "exploration or exploitation asset" means an asset used in connection with exploration or exploitation activities carried on in the United Kingdom or a designated area;

(b) "designated area" and "exploration or exploitation activities" have the same meanings as in section 276; and

(c) the expressions "dedicated to an oil field" and "participator" shall be construed as if this section were included in Part I of the [M13]Oil Taxation Act 1975.

Textual Amendments

F128 Word in s. 199(6)(b) substituted (with effect in accordance with s. 155(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 27 para. 2(3)**

Modifications etc. (not altering text)

C56 S. 199(2)(4) modified (with effect in accordance with s. 153(4) of the amending Act) by Finance Act 2003 (c. 14), **s. 153(2)(b)**

Marginal Citations

M13 1975 c. 22.

[F129]200 Limitation of losses on disposal of oil industry assets held on 31st March 1982.

. . . . . .

Textual Amendments

F129 S. 200 repealed (with effect in accordance with s. 93(11) of the amending Act) by Finance Act 1994 (c. 9), s. 93(7), **Sch. 26 Pt. V(8)** (with Sch. 12)

Mineral leases

201 Royalties.

(1) A person resident or ordinarily resident in the United Kingdom who in any chargeable period is entitled to receive any mineral royalties under a mineral lease or agreement shall be treated for the purposes of this Act as if there accrued to him in that period a chargeable gain equal to one-half of the total of the mineral royalties receivable by him under that lease or agreement in that period.

(2) This section shall have effect notwithstanding any provision of section 119(1) of the Taxes Act making the whole of certain kinds of mineral royalties chargeable to tax under Schedule D, [F130]... .

(3) The amount of the chargeable gain treated as accruing to any person by virtue of subsection (1) above shall, notwithstanding any other provision of this Act, be the whole amount calculated in accordance with that subsection, and, accordingly, no reduction shall be made on account of expenditure incurred by that person or of any other matter whatsoever.

(4) In any case where, before the commencement of section 122 of the Taxes Act, for the purposes of the 1979 Act or corporation tax on chargeable gains a person was treated as if there had accrued to him in any chargeable period ending before 6th April 1988 a chargeable gain equal to the relevant fraction, determined in accordance with section 29(3)(b) of the [M14]Finance Act 1970, of the total of the mineral royalties receivable by him under that lease or agreement in that period, subsection (1) above

shall have effect in relation to any mineral royalties receivable by him under that lease or agreement in any later chargeable period with the substitution for the reference to one-half of a reference to the relevant fraction as so determined.

Textual Amendments

F130 Words in s. 201(2) repealed (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 29 Pt. VIII(22)**

Marginal Citations

M14 1970 c.24.

202 Capital losses.

(1) This section has effect in relation to capital losses which accrue during the currency of a mineral lease or agreement, and applies in any case where, at the time of the occurrence of a relevant event in relation to a mineral lease or agreement, the person who immediately before that event occurred was entitled to receive mineral royalties under the lease or agreement ("the taxpayer") has an interest in the land to which the mineral lease or agreement relates ("the relevant interest").

(2) For the purposes of this section, a relevant event occurs in relation to a mineral lease or agreement—

(a) on the expiry or termination of the mineral lease or agreement;

(b) if the relevant interest is disposed of, or is treated as having been disposed of by virtue of any provision of this Act.

(3) On the expiry or termination of a mineral lease or agreement the taxpayer shall, if he makes a claim in that behalf, be treated for purposes of tax in respect of chargeable gains as if he had disposed of and immediately reacquired the relevant interest for a consideration equal to its market value, but a claim may not be made under this subsection—

(a) if the expiry or termination of the mineral lease or agreement is also a relevant event falling within subsection (2)(b) above; nor

(b) unless, on the notional disposal referred to above, an allowable loss would accrue to the taxpayer.

(4) In this section "the terminal loss", in relation to a relevant event in respect of which a claim is made under subsection (3) above, means the allowable loss which accrues to the taxpayer by virtue of the notional disposal occurring on that relevant event by virtue of that subsection.

(5) On making a claim under subsection (3) above, the taxpayer shall specify whether he requires the terminal loss to be dealt with in accordance with subsection (6) or subsections (9) to (11) below.

(6) Where the taxpayer requires the loss to be dealt with in accordance with this subsection it shall be treated as an allowable loss accruing to him in the chargeable period in which the mineral lease or agreement expires.

(7) If on the occurrence of a relevant event falling within subsection (2)(b) above, an allowable loss accrues to the taxpayer on the disposal or notional disposal which constitutes that relevant event, the taxpayer may make a claim under this subsection

requiring the loss to be dealt with in accordance with subsections (9) to (11) below and not in any other way.

(8) In subsections (9) to (11) below "the terminal loss" in relation to a relevant event in respect of which a claim is made under subsection (7) above means the allowable loss which accrues to the taxpayer as mentioned in that subsection.

(9) Where, as a result of a claim under subsection (3) or (7) above, the terminal loss is to be dealt with in accordance with this subsection, then, subject to subsection (10) below, it shall be deducted from or set off against the amount on which the taxpayer was chargeable to capital gains tax, or as the case may be corporation tax, for chargeable periods preceding that in which the relevant event giving rise to the terminal loss occurred and falling wholly or partly within the period of 15 years ending with the date of that event.

(10) The amount of the terminal loss which, by virtue of subsection (9) above, is to be deducted from or set off against the amount on which the taxpayer was chargeable to capital gains tax, or as the case may be corporation tax, for any chargeable period shall not exceed the amount of the gain which in that period was treated, by virtue of section 201(1), as accruing to the taxpayer in respect of mineral royalties under the mineral lease or agreement in question; and subject to this limit any relief given to the taxpayer by virtue of subsection (9) above shall be given as far as possible for a later rather than an earlier chargeable period.

(11) If in any case where relief has been given to the taxpayer in accordance with subsections (9) and (10) above there remains an unexpended balance of the terminal loss which cannot be applied in accordance with those subsections, there shall be treated as accruing to the taxpayer in the chargeable period in which the relevant event occurs an allowable loss equal to that unexpended balance.

203 Provisions supplementary to sections 201 and 202.

(1) Subsections (5) to (7) of section 122 of the Taxes Act (meaning of "minerals" etc.) shall apply for the interpretation of this section and sections 201 and 202 as they apply for the interpretation of that section.

(2) No claim under section 202(3) or (7) shall be allowed unless it is made within 6 years from the date of the relevant event by virtue of which the taxpayer is entitled to make the claim.

(3) All such repayments of tax shall be made as may be necessary to give effect to any such claim.

CHAPTER III

INSURANCE

[F131 204 Policies of insurance and non-deferred annuities

(1) A gain accruing on a disposal of, or of an interest in, the rights conferred by a non-life policy of insurance is not a chargeable gain (but see subsection (2)).

(2) If a disposal is of, or of an interest in, the rights conferred by a non-life policy of insurance of the risk of—

(a) any kind of damage to assets, or
(b) the loss or depreciation of assets,

the exemption under subsection (1) does not apply so far as those rights relate to chargeable assets.

(3) For this purpose "chargeable assets" means assets on the disposal of which a chargeable gain—
(a) may accrue, or
(b) might have accrued.

(4) Nothing in subsections (1) and (2) prevents sums received under a non-life policy of insurance of the risk of—
(a) any kind of damage to assets, or
(b) the loss or depreciation of assets,

from being sums derived from the assets for the purposes of this Act (and, in particular, for the purposes of section 22).

(5) A gain accruing on a disposal of, or of an interest in, the rights conferred by a contract for an annuity is not a chargeable gain if the annuity is—
(a) a non-deferred annuity, or
(b) an annuity granted (or deemed to be granted) under the Government Annuities Act 1929.

(6) If any investments or other assets are, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder—
(a) the policy holder's acquisition of the assets, and
(b) the disposal of the assets to the policy holder,

are to be taken for the purposes of this Act to be for a consideration equal to the market value of the assets.

(7) In this section "interest", in relation to any rights, means an interest as a co-owner of the rights.

(8) It does not matter—
(a) whether the rights are owned jointly or in common, or
(b) whether or not the interests of the co-owners are equal.

(9) In this section a "non-deferred annuity" means an annuity—
(a) which is not granted under a contract for a deferred annuity, and
(b) which is granted in the ordinary course of a business of granting annuities on the life of any person,

and it does not matter whether the annuity includes instalments of capital.

(10) In this section a "non-life policy of insurance" means—
(a) a contract made in the course of a capital redemption business, **[**F132within the meaning of Chapter 1 of Part 12**]** of the Taxes Act, and
(b) any F133... policy of insurance which is not a policy of insurance on the life of any person.**]**

Textual Amendments

F131 S. 204 substituted (with effect in accordance with s. 73(4) of the amending Act) by Finance Act 2006 (c. 25), **s. 73(2)**

F132 Words in s. 204(10) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 61(a)** (with Sch. 7 Pt. 2)

F133 Word in s. 204(10) repealed (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 61(b), **Sch. 27 Pt. 2(7)** (with Sch. 7 Pt. 2)

205 Disallowance of insurance premiums as expenses.

Without prejudice to the provisions of section 39, there shall be excluded from the sums allowable as a deduction in the computation of the gain accruing on the disposal of an asset any premiums or other payments made under a policy of insurance of the risk of any kind of damage or injury to, or loss or depreciation of, the asset.

F134206 . . . . . .

Textual Amendments

F134 S. 206 repealed (27.7.1993, the repeal of subsections (2)-(5) having effect for the year 1994-95 and subsequent years of assessment, the repeal of subsection (1) having effect for the year 1992-93 and subsequent years of assessment, as mentioned in Notes 4, 5) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** Table(12) Notes 4, 5; S. 206 further amended (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, **ss. 183(7)**, 184(3)

F135207 . . . . . .

Textual Amendments

F135 S. 207 repealed (27.7.1993 with effect for the year 1994 and subsequent underwriting years as mentioned in Note 2) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** Table(12) Note 2

F136208 . . . . . .

Textual Amendments

F136 S. 208 repealed (27.7.1993 with effect for the year 1994 and subsequent underwriting years as mentioned in Sch. 23, Pt. III Table (12) Note 2) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** Table(12) Note 2

F137209 . . . . . .

Textual Amendments

F137 S. 209 repealed (27.7.1993, the repeal of subsections (1)(2)(6) having effect for the year 1994-95 and subsequent years of assessment, the repeal of subsections (3)-(5) having effect for the year 1992-3 and subsequent years of assessment, as mentioned in Notes 4, 5) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** Table(12) Notes 4, 5; s. 209 further amended (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment as mentioned in s. 184(3)) by 1993 c. 34, **ss. 183(8)(a)(b)**, 184(3)

[F138 210 Life assurance and deferred annuities.

(1) This section has effect in relation to any policy of insurance or contract for a deferred annuity on the life of any person.

(2) A gain accruing on a disposal of, or of an interest in, the rights conferred by the policy of insurance or contract for a deferred annuity is not a chargeable gain unless subsection (3) below applies.

(3) This subsection applies if—

(a) (in the case of a disposal of the rights) the rights or any interest in the rights, or

(b) (in the case of a disposal of an interest in the rights) the rights, the interest or any interest from which the interest directly or indirectly derives (in whole or in part),

have or has at any time been acquired by any person for actual consideration (as opposed to consideration deemed to be given by any enactment relating to the taxation of chargeable gains).

(4) For the purposes of subsection (3) above —

(a) (in the case of a policy of insurance) amounts paid under the policy by way of premiums, and

(b) (in the case of a contract for a deferred annuity) amounts paid under the contract, whether by way of premiums or as lump sum consideration,

do not constitute actual consideration.

(5) And for those purposes actual consideration for—

(a) a disposal which is made by one spouse **[**F139or civil partner**]** to the other or is an approved post-marriage disposal **[**F140or an approved post-civil partnership disposal**]**, or

(b) a disposal to which section 171(1) applies,

is to be treated as not constituting actual consideration.

(6) For the purposes of subsection (5)(a) above a disposal is an approved post-marriage disposal **[**F141or an approved post-civil partnership disposal**]** if—

(a) it is made in consequence of the dissolution or annulment of a marriage **[**F142or civil partnership**]** by one person who was a party to the marriage **[**F142or civil partnership**]** to the other,

(b) it is made with the approval, agreement or authority of a court (or other person or body) having jurisdiction under the law of any country or territory or pursuant to an order of such a court (or other person or body), and

(c) the rights disposed of were, or the interest disposed of was, held by the person by whom the disposal is made immediately before the marriage **[**F143or civil partnership**]** was dissolved or annulled.

(7) Subsection (8) below applies for the purposes of tax on chargeable gains where—

(a) (if that subsection did not apply) a loss would accrue on a disposal of, or of an interest in, the rights conferred by the policy of insurance or contract for a deferred annuity, but

(b) if sections 37 and 39 were disregarded, there would accrue on the disposal a loss of a smaller amount, a gain or neither a loss nor a gain.

(8) If (disregarding those sections) a loss of a smaller amount would accrue, that smaller amount is to be taken to be the amount of the loss accruing on the disposal; and in any other case, neither a loss nor a gain is to be taken to accrue on the disposal.

(9) But subsection (8) above does not affect the treatment for the purposes of tax on chargeable gains of the person who acquired rights, or an interest in rights, on the disposal.

(10) The occasion of—

(a) the receipt of the sum or sums assured by the policy of insurance,

(b) the transfer of investments or other assets to the owner of the policy of insurance in accordance with the policy, or

(c) the surrender of the policy of insurance,

is for the purposes of tax on chargeable gains an occasion of a disposal of the rights (or of all of the interests in the rights) conferred by the policy of insurance.

(11) The occasion of—

(a) the receipt of the first instalment of the annuity under the contract for a deferred annuity, or

(b) the surrender of the rights conferred by the contract for a deferred annuity,

is for the purposes of tax on chargeable gains an occasion of a disposal of the rights (or of all of the interests in the rights) conferred by the contract for a deferred annuity.

(12) Where there is a disposal on the occasion of the receipt of the first instalment of the annuity under the contract for a deferred annuity—

(a) in the case of a disposal of the rights conferred by the contract, the consideration for the disposal is the aggregate of the amount or value of the first instalment and the market value at the time of the disposal of the right to receive the further instalments of the annuity, and

(b) in the case of a disposal of an interest in the rights, the consideration for the disposal is such proportion of that aggregate as is just and reasonable;

and no gain accruing on any subsequent disposal of, or of any interest in, the rights is a chargeable gain (even if subsection (3) above applies).

(13) In this section "interest", in relation to rights conferred by a policy of insurance or contract for a deferred annuity, means an interest as a co-owner of the rights (whether the rights are owned jointly or in common and whether or not the interests of the co-owners are equal).**]**

Textual Amendments

F138 S. 210 substituted (with effect in accordance with s. 157(2) of the amending Act) by Finance Act 2003 (c. 14), **s. 157(1)**

F139 Words in s. 210(5)(a) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **116(2)(a)**

F140 Words in s. 210(5)(a) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **116(2)(b)**

F141 Words in s. 210(6) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **116(3)(a)**

F142 Words in s. 210(6)(a) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **116(3)(b)**

F143 Words in s. 210(6)(c) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **116(3)(c)**

[F144 210A Ring-fencing of losses

(1) Section 8(1) has effect in relation to insurance companies subject to the provisions of this section.

(2) Non-BLAGAB allowable losses accruing to an insurance company are not allowable as a deduction from the policy holders' share of the BLAGAB chargeable gains accruing to the company.

(3) BLAGAB allowable losses accruing to an insurance company are allowable as a deduction from non-BLAGAB chargeable gains accruing to the company as permitted by the following provisions of this section (and not otherwise).

(4) They are allowable as a deduction from only so much of non-BLAGAB chargeable gains accruing to the company in an accounting period as exceeds the aggregate of—

(a) non-BLAGAB allowable losses accruing to the company in the accounting period, and

(b) non-BLAGAB allowable losses previously accruing to the company which have not been allowed as a deduction from chargeable gains accruing in any previous accounting period.

(5) And they are allowable as a deduction from non-BLAGAB chargeable gains accruing to the company in an accounting period only to the extent that they do not exceed the permitted amount for the accounting period.

(6) The permitted amount for the first accounting period of an insurance company in relation to which this section has effect is the aggregate of—

(a) the amount by which shareholders' share for that accounting period of BLAGAB allowable losses accruing to the company in the accounting period exceeds the shareholders' share of BLAGAB chargeable gains so accruing, and

(b) the shareholder’s share for the immediately preceding accounting period of BLAGAB allowable losses previously accruing to the company which have not been allowed as a deduction from chargeable gains accruing in that immediately preceding accounting period or any earlier accounting period.

(7) The permitted amount for any subsequent accounting period of the company is arrived at by—

(a) deducting from the permitted amount for the immediately preceding accounting period the amount of any BLAGAB allowable losses allowed as a deduction from non-BLAGAB chargeable gains accruing to the company in the immediately preceding accounting period, and

(b) adjusting the result in accordance with subsection (8) or (9) below.

(8) If the BLAGAB chargeable gains accruing to the company in the subsequent accounting period exceed the BLAGAB allowable losses so accruing, the amount arrived at under subsection (7)(a) above is reduced by a fraction of which—

(a) the denominator is the BLAGAB allowable losses accruing to the company in any previous accounting period which have not been allowed as a deduction from chargeable gains accruing to the company in any previous accounting period, and

(b) the numerator is so many of those allowable losses as are allowed as a deduction from BLAGAB chargeable gains accruing to the company in the accounting period.

(9) If the BLAGAB allowable losses accruing to the company in the subsequent accounting period exceed the BLAGAB chargeable gains so accruing, the amount arrived at under subsection (7)(a) above is increased by the shareholders' share of the amount by which those allowable losses exceed those chargeable gains.

(10) For the purposes of this section the policy holders' share of chargeable gains or allowable losses accruing to an insurance company in an accounting period—

(a) if the policy holders' share of the relevant profits for the accounting period exceeds the BLAGAB profits of the company for the period (within the meaning of section 89(1B) of the Finance Act 1989), is the whole amount of the chargeable gains or allowable losses, and

(b) otherwise, is the same proportion of that whole amount as the policy holders' share of the relevant profits **[**[F145]for the accounting period bears to those BLAGAB profits**]**.

(11) In arriving at the policy holders' share of chargeable gains accruing to an insurance company under subsection (10) above there is to be ignored—

(a) any deduction under section 202(9) (mineral leases: capital losses),

(b) any reduction under section 213(3) (spreading of losses from deemed disposal of holdings of unit trust etc), and

(c) any amount carried back under paragraph 4(3) of Schedule 11 to the Finance Act 1996 (non-trading deficit on loan relationships).

(12) For the purposes of this section the shareholders' share of chargeable gains or allowable losses in relation to an accounting period of an insurance company is the proportion of the whole which is not represented by the policy holders' share of them in relation to the accounting period.

(13) In this section—

"BLAGAB allowable losses", in relation to an insurance company, means allowable losses referable **[**[F146](in accordance with section 432A of the Taxes Act)**]** to the company's basic life assurance and general annuity business,

"BLAGAB chargeable gains", in relation to an insurance company, means chargeable gains referable **[**[F146](in accordance with section 432A of the Taxes Act)**]** to the company's basic life assurance and general annuity business,

"non-BLAGAB allowable losses", in relation to an insurance company, means allowable losses of the company which are not BLAGAB allowable losses,

"non-BLAGAB chargeable gains", in relation to an insurance company, means chargeable gains of the company which are not BLAGAB chargeable gains, and

"the relevant profits" and "the policy holders' share of the relevant profits" have the same meaning as they have for the purposes of subsection (1) of section 88 of the Finance Act 1989 by virtue of subsection (3) of that section and section 89 of that Act.**]**

Textual Amendments

F144 S. 210A inserted (with effect in accordance with Sch. 33 para. 14(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 14(1)**

F145 Words in s. 210A(10)(b) substituted (with effect in accordance with Sch. 7 para. 6(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 7 para. 6(1)**

F146 Words in s. 210A(13) inserted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 9(3)(a)**

Modifications etc. (not altering text)

C57 S. 210A modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **reg. 34A** (as inserted by S.I. 2007/2134, regs. 1(1)(2), 27)

[F147210B Disposal and acquisition of section 440A securities

(1) Subsections (2) to (4) below apply in a case where, within a period of 10 days, an insurance company disposes of a number of section 440A securities and (whether subsequently or previously) acquires a number of section 440A securities if—

(a) the securities disposed of decrease the size of a chargeable section 440A holding,

(b) the securities acquired increase the size of the same chargeable section 440A holding, and

(c) (apart from this section) an allowable loss would accrue on the disposal.

(2) The securities disposed of shall be identified with the securities acquired.

(3) The securities disposed of shall be identified with securities acquired before the disposal rather than securities acquired after the disposal and—

(a) in the case of securities acquired before the disposal, with those acquired later rather than those acquired earlier, and

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

(4) Where securities acquired could be identified with securities disposed of either at an earlier or at a later date, they shall be identified with the former rather than the latter; and the identification of securities acquired with securities disposed of on any occasion shall preclude their identification with securities comprised in a later disposal.

(5) Subsections (2) to (4) above have effect subject to section 105(1).

(6) Subsections (2) to (4) above do not apply to—

(a) securities which are **[**F148assets within section 212(1).**]**F149...

F149(b) . . . . . .

(7) Subsections (2) to (4) above do not apply if—

(a) the securities disposed of are linked assets appropriated to a BLAGAB internal linked fund,

(b) the securities acquired are, on acquisition, appropriated to that or another internal linked fund, and

(c) the disposal and acquisition are made with a view to adjusting the value of the assets of that fund, or of those funds, in order to match its or their liabilities.

(8) In this section—

"BLAGAB internal linked fund" means an internal linked fund all the assets appropriated to which are linked solely to basic life assurance and general annuity business,

"chargeable section 440A holding" means a holding which is a separate holding by virtue of subsection **[**F150(2)(a)(i)**]** or (d) of section 440A of the Taxes Act (and subsections (3) and (4) of that section),

F151 . . . . . , and

"section 440A securities" means securities within the meaning of section 440A of the Taxes Act.**]**

Textual Amendments

F147 S. 210B inserted (with effect in accordance with Sch. 33 para. 15(2)(3) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 15(1)**

F148 Words in s. 210B(6)(a) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 5(2)**

F149 S. 210B(6)(b) and preceding word repealed (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 62(a), **Sch. 27 Pt. 2(7)** (with Sch. 7 Pt. 2)

F150 Word in s. 210B(8) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 62(b)** (with Sch. 7 Pt. 2)

F151 Words in s. 210B(8) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 10 para. 9(2)(c), **Sch. 27 Pt. 2(10)**

Modifications etc. (not altering text)

C58 S. 210B modified (with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), regs. 1(1), **35**

[F152**210C Losses on disposal of authorised investment fund assets to connected manager**

(1) Section 18(3) does not apply in relation to a loss accruing on the disposal by an insurance company of authorised investment fund assets to the manager of the authorised investment fund.

(2) In this section—

"authorised investment fund assets" means assets of the company's long-term insurance fund consisting of rights under an authorised unit trust or shares in an open-ended investment company,

"the manager of the authorised investment fund" means—

(a) in the case of an authorised unit trust, the person who is the manager of the unit trust scheme for the purposes of Chapter 3 of Part 17 of the Financial Services and Markets Act 2000, and

(b) in the case of an open-ended investment company, a director or other person having responsibility for the management of its scheme property, and

"open-ended investment company" means a company incorporated in the United Kingdom to which section 236 of the Financial Services and Markets Act 2000 applies.**]**

Textual Amendments

F152 S. 210C inserted (with effect in accordance with Sch. 10 para. 17(4) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 3**

211 Transfers of business.

[F153(1) This section applies where an insurance business transfer scheme has effect to transfer business which consists of the effecting or carrying out of contracts of long-term insurance from one person ("the transferor") to another ("the transferee").

F154(1A) . . . . . **]**

[F155(2) Where this section applies the transferor and the transferee are treated for the purposes of corporation tax on chargeable gains as if any assets included in the transfer which—

(a) immediately before they are acquired by the transferee, were assets of the transferor's long-term insurance fund, and

(b) immediately after they are so acquired are assets of the transferee's long-term insurance fund,

were acquired for a consideration of such amount as would secure that neither a gain nor a loss would accrue to the transferor on the disposal.

[F156(2A) The reference in subsection (2) above to assets included in the transfer does not include structural assets within the meaning of section 83XA of the Finance Act 1989.**]**

(3) Subsection (2) above is subject to section 212.**]**

F157(3) . . . . . .

Textual Amendments

F153 S. 211(1)(1A) substituted (with effect in accordance with art. 66(2) of the amending S.I.) for s. 211(1) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), arts. 1(2)(a), 66(1)

F154 S. 211(1A) repealed (10.7.2003) by Finance Act 2003 (c. 14), **Sch. 43 Pt. 3(12)**

F155 S. 211(2)(3) substituted for s. 211(2)(2A) (with effect in accordance with Sch. 9 para. 17(1) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 14(2)**

F156 S. 211(2A) inserted (with effect in accordance with Sch. 10 para. 17(2)(3) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 2(4)**

F157 S. 211(3) repealed (with effect in accordance with Sch. 29 paras. 5(4), 30(5), Sch. 40 Pt. II(12) Note 10 of the amending Act) by Finance Act 2000 (c. 17), Sch. 29 para. 30(4), **Sch. 40 Pt. II(12)** (with Sch. 29 para. 46(5))

Modifications etc. (not altering text)

C59 S. 211(1) modified (with effect in accordance with reg. 1 of the amending S.I.) by The Friendly Societies (Taxation of Transfers of Business) Regulations 1995 (S.I. 1995/171), regs. 1, **4(1)**(2)(e)

[F158 211ZA Transfers of business: transfer of unused losses

(1) This section applies where—

(a) an insurance business transfer scheme has effect to transfer business consisting of or including basic life assurance and general annuity business from one person ("the transferor") to another ("the transferee") or more than one others ("the transferees"), and

(b) the transferor has relevant unused losses.

(2) For the purposes of subsection (1)(b) above the transferor has relevant unused losses if—

(a) BLAGAB allowable losses accrue to the transferor in the accounting period ending with the day of the transfer or have so accrued in any earlier accounting period, and

(b) they are not deducted from chargeable gains accruing to the transferor in that accounting period and have not been deducted from chargeable gains so accruing in any previous accounting period.

F159 **[** (2A) For the purposes of subsection (2) above, where there is no accounting period of the transferor ending with the day of the transfer—

(a) there is deemed to be such an accounting period,

(b) BLAGAB allowable losses which would have accrued to the transferor in that accounting period are deemed to have accrued to the transferor in that accounting period, and

(c) if those BLAGAB allowable losses would not have been deducted from chargeable gains accruing to the transferor in that accounting period, they are deemed to be relevant unused losses.**]**

(3) Subject as follows—

(a) for the purposes of ascertaining the transferor's total profits for any accounting period **[**F160 ending**]** after that in which the transfer takes place, the relevant unused losses are deemed not to have accrued to the transferor, but

(b) (instead) they are treated as accruing to the transferee (in accordance with subsection (4) below).

(4) The losses treated as accruing to the transferee under subsection (3)(b) above shall be deemed to be BLAGAB allowable losses accruing to the transferee in the accounting period of the transferee in which the transfer takes place.

(5) But those losses are not allowable as a deduction from chargeable gains accruing before the transfer takes place.

(6) For the purposes of section 210A (ring-fencing of losses), the shareholders' share of those losses is to be taken to be the same proportion as would be the shareholders' share of them if they had remained losses of the transferor.

(7) If only part of the transferor's basic life assurance and general annuity business is transferred, subsection (3) above applies as if the references to the relevant unused losses were to such part of the relevant unused losses as is appropriate.

(8) If the transfer is to more than one others, subsection (3)(b) above applies as if the reference to the relevant unused losses being treated as accruing to the transferee were to such part of the relevant unused losses as is appropriate being treated as accruing to each of the transferees.

(9) Any question arising as to the operation of subsection (7) or (8) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee (or the one of the transferees concerned) shall be entitled to appear and be heard or to make representations in writing.

(10) In this section "BLAGAB allowable losses" means allowable losses referable **[**F161(in accordance with section 432A of the Taxes Act)**]** to the transferor's basic life assurance and general annuity business.**]**

Textual Amendments

F158 S. 211ZA inserted (with effect in accordance with Sch. 33 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 21(1)**

F159 S. 211ZA(2A) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **28(2)**

F160 Word in s. 211ZA(3)(a) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **28(3)**

F161 Words in s. 211ZA(10) inserted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 9(3)(b)**

Modifications etc. (not altering text)

C60 S. 211ZA modified (with effect in accordance with reg. 1(2) of the affecting S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), regs. 1(1), **36**

[F162**211A Gains of insurance company from venture capital investment partnership**

Schedule 7AD to this Act has effect with respect to the gains of an insurance company from a venture capital investment partnership.**]**

Textual Amendments

F162 S. 211A inserted (24.7.2002) by Finance Act 2002 (c. 23), **s. 85(1)**

212 Annual deemed disposal of holdings of unit trusts etc.

(1) Where at the end of an accounting period the assets of an insurance company's **[**F163long-term insurance**]** fund include—

(a) rights under an authorised unit trust, or

(b) relevant interests in an offshore fund**[**F164, or

(c) shares in a company to which Part 4 of the Finance Act 2006 applies (Real Estate Investment Trusts),**]**

then, subject to the following provisions of this section and to section 213, the company shall be deemed for the purposes of corporation tax on capital gains to have disposed of and immediately reacquired each of the assets concerned at its market value at that time.

F165(2) Subsection (1) above shall not apply to assets linked solely to **[**F166gross roll-up business**]**.

F167(2A) . . . . . .

F168(3) . . . . . .

F168(4) . . . . . .

(5) For the purposes of this section an interest is a "relevant interest in an offshore fund" if—

(a) it is a material interest in an offshore fund for the purposes of Chapter V of Part XVII of the Taxes Act, or

[F169(b) it would be such an interest if either or both of the assumptions mentioned in subsection (6A) below were made.**]**

F168(6) . . . . . .

[F170(6A) The assumptions referred to in subsection (5)(b) above are—

(a) that the companies, unit trust schemes and arrangements referred to in **[**F171paragraphs (a) to (c) of subsection (1) of section 756A**]** of the Taxes Act are not limited to those which are also collective investment schemes;

(b) that the shares and interests excluded by subsections (6) and (8) of **[**F172section 759 of that Act**]** are limited to shares or interests in trading companies.**]**

(7) In this section "trading company" means a company—

(a) whose business consists of the carrying on of insurance business, or the carrying on of any other trade which does not consist to any extent of dealing in commodities, currency, securities, debts or other assets of a financial nature, or

(b) whose business consists wholly or mainly of the holding of shares or securities of trading companies which are its 90 per cent. subsidiaries;

F173 . . . . . .

F174(7A) . . . . . .

F175(8) . . . . . .

Textual Amendments

F163 Words in s. 212(1) 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), **73(1)(a)**

F164 S. 212(1)(c) and preceding word inserted (19.7.2006) by Finance Act 2006 (c. 25), **s. 137**

F165 Words in s. 212(2) inserted (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), regs. 1, **19**

F166 Words in s. 212(2) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 63** (with Sch. 7 Pt. 2)

F167 S. 212(2A) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 10 para. 5(3)(a), **Sch. 27 Pt. 2(10)**

F168 S. 212(3)(4)(6) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 34, ss. 91(2)(b), 213, **Sch. 23 Pt. III** Table(8) Note

F169 S. 212(5)(b) substituted (with effect in accordance with s. 134(10) of the amending Act) by Finance Act 1995 (c. 4), **s. 134(6)**

F170 S. 212(6A) inserted (with effect in accordance with s. 134(10) of the amending Act) by Finance Act 1995 (c. 4), **s. 134(7)**

F171 Words in s. 212(6A)(a) substituted (with effect in accordance with s. 145(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 26 para. 11(a)** (with Sch. 26 para. 17)

F172 Words in s. 212(6A)(b) substituted (with effect in accordance with s. 145(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 26 para. 11(b)** (with Sch. 26 para. 17)

F173 Words in s. 212(7) repealed (10.7.2003) by Finance Act 2003 (c. 14), **Sch. 43 Pt. 3(12)**

F174 S. 212(7A) repealed (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 8 para. 18, **Sch. 27 Pt. 2(8)** (with Sch. 8 Pt. 2)

F175 S. 212(8) repealed (27.7.1993 with effect as mentioned in s. 91(1)) by 1993 c. 34, ss. 91(1), 213, **Sch. 23 Pt. III** Table(8) Note

Modifications etc. (not altering text)

C61 S. 212 modified (31.7.1992) by S.I. 1992/1655, **arts. 1**, 21
S. 212 amended (27.7.1993) by 1993 c. 34, **s. 91(1)**
S. 212 excluded (27.7.1993) by 1993 c. 34, **s. 91(1)**

C62 S. 212 modified (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), s. 105, **Sch. 15 para. 15(2)**

C63 S. 212 modified (with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), regs. 1(1), 37 (as amended by S.I. 2007/2134, regs. 1(1)(2), 28)

C64 S. 212 modified (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Insurance Companies (Tax Exempt Business) Regulations 2007 (S.I. 2007/2145), regs. 1(1), **13**

C65 S. 212(1) excluded by 1988 c. 1, s. 440B(5) (as inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 28(1)** (with Sch. 8 para. 55(2)))

213 Spreading of gains and losses under section 212.

(1) Any chargeable gains or allowable losses which would otherwise accrue on disposals deemed by virtue of section 212 to have been made at the end of a company's accounting period shall be treated as not accruing to it, but instead—

(a) there shall be ascertained the difference ("the net amount") between the aggregate of those gains and the aggregate of those losses, and

(b) one-seventh of the net amount shall be treated as a chargeable gain or, where it represents an excess of losses over gains, as an allowable loss accruing to the company at the end of the accounting period, and

(c) a further one-seventh shall be treated as a chargeable gain or, as the case may be, as an allowable loss accruing at the end of each succeeding accounting period until the whole amount has been accounted for.

[F176(1A) Subsection (1) above shall not apply to chargeable gains or allowable losses except so far as they are gains or losses which—

(a) are referable **[**F177(in accordance with section 432A of the Taxes Act)**]** to basic life assurance and general annuity business F178... **]**

(2) For any accounting period of less than one year, the fraction of one-seventh referred to in subsection (1)(c) above shall be proportionately reduced; and where this subsection has had effect in relation to any accounting period before the last for which subsection (1)(c) above applies, the fraction treated as accruing at the end of that last accounting period shall also be adjusted appropriately.

(3) **[**F179Subject to **[**F180subsection (8H)**]** below,**]** Where—

(a) the net amount for an accounting period of an insurance company represents an excess of gains over losses,

(b) the net amount for **[**F181either of the next 2**]** accounting periods (after taking account of any reductions made by virtue of this **[**F182section**]**) represents an excess of losses over gains,

(c) there is (after taking account of any such reductions) no net amount for **[**F183the intervening accounting period (if there is one)**]**,

[F184(ca) **[**F185the intervening accounting period (if there is one) is not**]** an accounting period in which the company joined a group of companies, and**]**

(d) within 2 years after the end of the later accounting period the company makes a claim for the purpose in respect of the whole or part of the net amount for that period,

the net amounts for both the earlier and the later period shall be reduced by the amount in respect of which the claim is made.

F186(3A) . . . . . .

F187(3B) . . . . . .

(4) Subject to subsection (5) below, where a company ceases to carry on **[**F188long-term**]** business before the end of the last of the accounting periods for which subsection (1) (c) above would apply in relation to a net amount, the fraction of that amount that is treated as accruing at the end of the accounting period ending with the cessation shall be such as to secure that the whole of the net amount has been accounted for.

[F189(4A) The following provisions apply where an insurance business transfer scheme has effect to transfer business which consists of the effecting or carrying out of contracts of long-term insurance from one person ("the transferor") to another ("the transferee").

(5) Subject to subsections (5A) to (7) below, any chargeable gain or allowable loss which (**[**F190making the assumptions in subsection (5ZA) below**]**) would have accrued to the transferor by virtue of subsection (1) above after the transfer shall instead be deemed to accrue to the transferee.**]**

[F191(5ZA) The assumptions referred to in subsection (5) above are—

(a) that the transferor had continued to carry on the business transferred after the transfer, and

(b) where there is no accounting period of the transferor ending with the day of the transfer, that for the purposes of section 212 and this section, there was such an accounting period.**]**

[F192(5A) Subsection (5) above shall not apply where the transferee is resident outside the United Kingdom unless the business to which the transfer relates is carried on by the transferee, for a period beginning with the time when the transfer takes effect, through a **[**F193permanent establishment**]** in the United Kingdom.**]**

(6) Where subsection (5) above has effect, the amount of the gain or loss accruing at the end of the first accounting period of the transferee ending after the day when the transfer takes place shall be calculated as if that accounting period began with the day after the transfer.

(7) Where the transfer is of part only of the transferor's **[**F194long-term**]** business, subsection (5) above shall apply only to such part of any amount to which it would otherwise apply as is appropriate.

(8) Any question arising as to the operation of subsection (7) above shall be determined by the Special Commissioners who shall determine the question in the same manner

as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.

[F195(8A) Subsection (8B) below applies where—

F196(a) . . . . . .

(b) the transferor and the transferee are, at the time of the transfer, members of the same group,

(c) the **[**F197transferred assets**]** net amount for the accounting period of the transferor ending with the day of the transfer, or for the immediately preceding accounting period of the transferor, ("the relevant pre-transfer period of the transferor") represents an excess of gains over losses,

(d) the **[**F197transferred assets**]** net amount for the accounting period of the transferee in which the transfer takes place, or for the immediately following accounting period of the transferee, ("the relevant post-transfer period of the transferee") represents an excess of losses over gains (after taking account of any reductions made by virtue of this section), and

(e) within 2 years after the end of the relevant post-transfer period of the transferee, the transferor and the transferee make a joint election in respect of the whole or part of the net amount for that period by notice to an officer of the Board.

(8B) Subject to subsections (8C) to (8E) and (8H) below, the **[**F198transferred assets**]** net amounts for both the relevant pre-transfer period of the transferor and the relevant post-transfer period of the transferee shall be reduced by the amount in respect of which the election is made.

(8C) Subsection (8B) above does not apply if—

(a) the relevant post-transfer period of the transferee is the accounting period immediately following that in which the transfer takes place, and

(b) the relevant pre-transfer period of the transferor is the accounting period immediately preceding that ending with the day of the transfer.

(8D) If—

(a) the relevant post-transfer period of the transferee is the accounting period immediately following that in which the transfer takes place, and

(b) the relevant pre-transfer period of the transferor is the accounting period ending with the day of the transfer,

subsection (8B) above applies only if the conditions in subsection (8F) below are satisfied in relation to the accounting period of the transferee in which the transfer takes place.

(8E) If—

(a) the relevant post-transfer period of the transferee is the accounting period in which the transfer takes place, and

(b) the relevant pre-transfer period of the transferor is the accounting period immediately preceding that ending with the day of the transfer,

subsection (8B) above applies only if the conditions in subsection (8F) below are satisfied in relation to the accounting period of the transferor ending with the day of the transfer.

(8F) The conditions referred to in subsections (8D) and (8E) above are that—

(a) there is (after taking account of any reductions made by virtue of this section) no **[**F199transferred assets**]** net amount for the accounting period, and

(b) the company whose accounting period it is did not join a group of companies in the accounting period.

(8G) A copy of the notice containing an election under subsection (8A)(e) above must accompany the tax return for the relevant post-transfer period of the transferee; and paragraphs 54 to 60 of Schedule 18 to the Finance Act 1998 (claims and elections for corporation tax purposes) do not apply to such an election.

(8H) **[**F200Subsection (3) above has**]** effect where the company, or the transferee, in question joins a group of companies in the accounting period for which the net amount represents an excess of losses over gains as if a claim or election could not be made in respect of that net amount except to the extent (if any) **[**F201that the net amount would still arise even if losses accruing after the date on which the company or transferee joined the group of companies were disregarded**]**.

[F202(8HA) Subsections (8A) and (8B) above have effect where the company, or the transferee, in question joins a group of companies in the accounting period for which the transferred assets net amount represents an excess of losses over gains as if a claim or election could not be made in respect of that net amount except to the extent (if any) that the transferred assets net amount would still arise even if losses accruing after the date on which the company or transferee joined the group of companies were disregarded.**]**

(8I) References in this section to a company joining a group of companies are to be construed in accordance with **[**F203section 184C as if those references were contained in that section; and in subsection (8A)(b) above "group" has the same meaning as in that section**].]**

[F204(8J) "Transferred assets net amount" means a net amount ascertained in accordance with section 213(1)(a) but only in relation to those assets referred to in section 212(1) which are transferred by the insurance business transfer scheme from the transferor to the transferee.**]**

F205(9) . . . . . .

F206(10) . . . . . .

Textual Amendments

F176 S. 213(1A) inserted (27.7.1993) by 1993 c. 37, **s. 91(4)**

F177 Words in s. 213(1A)(a) inserted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 9(3)(c)**

F178 Words in s. 213(1A) repealed (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 64, **Sch. 27 Pt. 2(7)** (with Sch. 7 Pt. 2)

F179 Words in s. 213(3) inserted (with effect in accordance with s. 137(6) of the amending Act) by Finance Act 1998 (c. 36), **s. 137(3)(a)**

F180 Words in s. 213(3) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 16(2)(a)**

F181 Words in s. 213(3)(b) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 16(2)(b)**

F182 Word in s. 213(3)(b) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 16(2)(b)**

F183 Words in s. 213(3)(c) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 16(2)(c)**

F184 S. 213(3)(ca) substituted for word at end of s. 213(3)(c) (with effect in accordance with s. 137(6) of the amending Act) by Finance Act 1998 (c. 36), **s. 137(3)(b)**

F185 Words in s. 213(3)(ca) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 16(2)(d)**

F186 S. 213(3A) repealed (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(3), **Sch. 43 Pt. 3(12)**

F187 S. 213(3B) repealed (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(3), **Sch. 43 Pt. 3(12)**

F188 Word in s. 213(4) 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), **73(2)(a)**

F189 S. 213(4A)(5) substituted for s. 213(5) (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 16(4)**

F190 Words in s. 213(5) substituted for the words "assuming that the transferor had continued to carry on the business transferred after the transfer" (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(2)**

F191 S. 213(5ZA) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(3)**

F192 S. 213(5A) inserted (with effect in accordance with s. 53(2) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 9 para. 4**

F193 Words in s. 213(5A) substituted (with effect in accordance with s. 153(4) of the amending Act) by Finance Act 2003 (c. 14), **s. 153(1)(b)**

F194 Word in s. 213(7) 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), **73(2)(a)**

F195 S. 213(8A)-(8I) inserted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 16(5)**

F196 S. 213(8A)(a) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(4)(a)**

F197 Words in s. 213(8A)(c)(d) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(4)(b)**

F198 Words in s. 213(8B) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(5)**

F199 Words in s. 213(8F)(a) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(6)**

F200 Words in s. 213(8H) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(7)**

F201 Words in s. 213(8H) substituted (with effect in accordance with s. 70(5) of the amending Act) by Finance Act 2006 (c. 25), **s. 70(5)(a)** (with s. 70(10)-(11))

F202 S. 213(8HA) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(8)**

F203 Words in s. 213(8I) substituted (with effect in accordance with s. 70(5) of the amending Act) by Finance Act 2006 (c. 25), **s. 70(5)(b)** (with s. 70(10)-(11))

F204 S. 213(8J) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(9)**

F205 S. 213(9) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** Table(8) Note

F206 S. 213(10) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(10)**

Modifications etc. (not altering text)

C66 S. 213 modified (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), s. 105, **Sch. 15 para. 15(2)**

C67 S. 213 modified (with effect in accordance with reg. 1 of the amending S.I.) by The Insurance Companies (Capital Redemption Business) (Modification of the Corporation Tax Acts) Regulations 1999 (S.I. 1999/498), regs. 1, **11(2)**

C68 S. 213(1A) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), regs. 1(1), **38**

C69 S. 213(5) modified (with effect in accordance with reg. 1 of the amending S.I.) by The Friendly Societies (Taxation of Transfers of Business) Regulations 1995 (S.I. 1995/171), regs. 1, **4(1)**(2)(e)

F207 214 Transitional provisions.

. . . . . .

Textual Amendments

F207 S. 214 repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 10 para. 5(3)(b), **Sch. 27 Pt. 2(10)**

F208 214A Further transitional provisions.

. . . . . .

Textual Amendments

F208 S. 214A repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 10 para. 5(3)(c), **Sch. 27 Pt. 2(10)**

F209 214B Modification of Act in relation to overseas life insurance companies.

. . . . . .

Textual Amendments

F209 S. 214B repealed (with effect in accordance with reg. 1 of the amending S.I.) by The Overseas Life Insurance Companies Regulations 2006 (S.I. 2006/3271), reg. 1, **Sch. Pt. 1**

F210 214BA Interpretation

. . . . . .

Textual Amendments

F210 S. 214BA repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 10 para. 14(5)(a), **Sch. 27 Pt. 2(10)**

CHAPTER IV

MISCELLANEOUS CASES

[F211 Re-organisations of mutual businesses

Textual Amendments

F211 S. 214C and cross-heading inserted (with effect in accordance with s. 121(4) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 21 para. 7**

214C Gains not eligible for taper relief.

(1) A gain shall not be eligible for taper relief if—

(a) it is a gain accruing on a disposal in connection with any relevant re-organisation; or

(b) it is a gain accruing on anything which, in a case in which capital sums are received under or in connection with a relevant re-organisation, falls under section 22 to be treated as a disposal.

(2) In this section "a relevant re-organisation" means—

(a) any scheme of reconstruction F212... applying to a mutual company;

(b) the transfer of the whole of a building society's business to a company in accordance with section 97 and the other applicable provisions of the Building Societies Act 1986; or

(c) the incorporation of a registered friendly society under the Friendly Societies Act 1992.

(3) In this section—

[F213"insurance company" means an undertaking carrying on the business of effecting or carrying out contracts of insurance and, for the purposes of this definition, "contract of insurance" has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;**]**

"mutual company" means—

(a) a mutual insurance company; or

(b) a company of another description carrying on a business on a mutual basis;

"mutual insurance company" means an insurance company carrying on a business without having a share capital; and

"scheme of reconstruction F214..." has the same meaning as in section 136.**]**

Textual Amendments

F212 Words in s. 214C(2)(a) repealed (with effect in accordance with Sch. 9 paras. 7, 8, Sch. 40 Pt. 3(2) Note of the amending Act) by Finance Act 2002 (c. 23), **Sch. 40 Pt. 3(2)**

F213 Words in s. 214C(3) substituted (with effect in accordance with art. 68(2) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), arts. 1(2)(a), **68(1)**

F214 Words in s. 214C(3) repealed (with effect in accordance with Sch. 9 paras. 7, 8, Sch. 40 Pt. 3(2) Note of the amending Act) by Finance Act 2002 (c. 23), **Sch. 40 Pt. 3(2)**

Building societies etc.

215 Disposal of assets on amalgamation of building societies etc.

If, in the course of or as part of an amalgamation of 2 or more building societies or a transfer of engagements from one building society to another, there is a disposal of an asset by one society to another, both shall be treated for the purposes of corporation tax on chargeable gains as if the asset were acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.

Modifications etc. (not altering text)

C70 Ss. 215, 216 restricted (with effect in accordance with s. 131(4) of the amending Act) by Finance Act 1995 (c. 4), **s. 131(1)**(2)(a)

216 Assets transferred from society to company.

(1) This section and section 217 apply where there is a transfer of the whole of a building society's business to a company ("the successor company") in accordance with section 97 and the other applicable provisions of the [M15]Building Societies Act 1986.

(2) Where the society and the successor company are not members of the same group at the time of the transfer—

(a) they shall be treated for the purposes of corporation tax on capital gains as if any asset disposed of as part of the transfer were acquired by the successor company for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the society, and

(b) if because of the transfer any company ceases to be a member of the same group as the society, that event shall not cause section [F215]... 179 to have effect as respects any asset acquired by the company from the society or any other member of the same group.

(3) Where the society and the successor company are members of the same group at the time of the transfer but later cease to be so, that later event shall not cause section [F216]... 179 to have effect as respects—

(a) any asset acquired by the successor company on or before the transfer from the society or any other member of the same group, or

(b) any asset acquired from the society or any other member of the same group by any company other than the successor company which is a member of the same group at the time of the transfer.

(4) Subject to subsection (6) below, where a company which is a member of the same group as the society at the time of the transfer—

(a) ceases to be a member of that group and becomes a member of the same group as the successor company, and

(b) subsequently ceases to be a member of that group,

section [F216]... 179 shall have effect on that later event as respects any relevant asset acquired by the company otherwise than from the successor company as if it had been acquired from the successor company.

(5) In subsection (4) above "relevant asset" means any asset acquired by the company—

(a) from the society, or

(b) from any other company which is a member of the same group at the time of the transfer,

when the company and the society, or the company, the society and the other company, were members of the same group.

(6) Subsection (4) above shall not apply if the company which acquired the asset and the company from which it was acquired (one being a 75 per cent. subsidiary of the other) cease simultaneously to be members of the same group as the successor company but continue to be members of the same group as one another.

(7) For the purposes of this section "group" shall be construed in accordance with section 170.

Textual Amendments

F215 Words in s. 216(2)(b) repealed (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 40 Pt. II(12)**

F216 Words in s. 216(3)(4) repealed (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 40 Pt. II(12)**

Modifications etc. (not altering text)

C70 Ss. 215, 216 restricted (with effect in accordance with s. 131(4) of the amending Act) by Finance Act 1995 (c. 4), **s. 131(1)**(2)(a)

Marginal Citations

M15 1986 c. 53.

217 Shares, and rights to shares, in successor company.

(1) Where, in connection with the transfer, there are conferred on members of the society—

(a) any rights to acquire shares in the successor company in priority to other persons, or

(b) any rights to acquire shares in that company for consideration of an amount or value lower than the market value of the shares, or

(c) any rights to free shares in that company,

any such right so conferred on a member shall be regarded for the purposes of tax on chargeable gains as an option (within the meaning of section 144) granted to, and

acquired by, him for no consideration and having no value at the time of that grant and acquisition.

(2) Where, in connection with the transfer, shares in the successor company are issued by that company, or disposed of by the society, to a member of the society, those shares shall be regarded for the purposes of tax on chargeable gains—

(a) as acquired by the member for a consideration of an amount or value equal to the amount or value of any new consideration given by him for the shares (or, if no new consideration is given, as acquired for no consideration); and

(b) as having, at the time of their acquisition by the member, a value equal to the amount or value of the new consideration so given (or, if no new consideration is given, as having no value);

but this subsection is without prejudice to the operation of subsection (1) above, where applicable.

(3) Subsection (4) below applies in any case where—

(a) in connection with the transfer, shares in the successor company are issued by that company, or disposed of by the society, to **[**F217the trustees of a settlement**]** on terms which provide for the transfer of those shares to members of the society for no new consideration; F218...

F219(b) . . . . . .

(4) Where this subsection applies, then, for the purposes of tax on chargeable gains—

(a) the shares shall be regarded as acquired by the trustees for no consideration;

(b) the interest of any member in the settled property constituted by the shares shall be regarded as acquired by him for no consideration and as having no value at the time of its acquisition;

(c) where a member becomes absolutely entitled as against the trustees to any of the settled property, both the trustees and the member shall be treated as if, on his becoming so entitled, the shares in question had been disposed of and immediately reacquired by the trustees, in their capacity as trustees within section 60(1), for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss would accrue to the trustees (and accordingly section 71 shall not apply in relation to that occasion); and

(d) on the disposal by a member of an interest in the settled property, other than the disposal treated as occurring for the purposes of paragraph (c) above, any gain accruing shall be a chargeable gain (and accordingly section 76(1) shall not apply in relation to the disposal).

(5) Where, in connection with the transfer, the society disposes of any shares in the successor company, then, for the purposes of this Act, any gains **[**F220accruing**]** on the disposal shall not be chargeable gains.

(6) In this section—

"free shares", in relation to a member of the society, means any shares issued by the successor company, or disposed of by the society, to that member in connection with the transfer but for no new consideration;

"member", in relation to the society, means a person who is or has been a member of it, in that capacity, and any reference to a member includes a reference to a member of any particular class or description;

"new consideration" means consideration other than—

(a) consideration provided directly or indirectly out of the assets of the society; or

(b) consideration derived from a member's shares or other rights in the society.

(7) References in this section to the case where a member becomes absolutely entitled to settled property as against the trustees shall be taken to include references to the case where he would become so entitled but for being an infant or otherwise under disability.

Textual Amendments

F217 Words in s. 217(3)(a) substituted (with effect in accordance with Sch. 12 para. 20(2) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 12 para. 20(1)(a)(i)**

F218 Word in s. 217(3)(a) repealed (with effect in accordance with Sch. 12 para. 20(2) of the amending Act) by Finance Act 2006 (c. 25), Sch. 12 para. 20(1)(a)(ii), **Sch. 26 Pt. 3(15)**

F219 S. 217(3)(b) repealed (with effect in accordance with Sch. 12 para. 20(2) of the amending Act) by Finance Act 2006 (c. 25), Sch. 12 para. 20(1)(b), **Sch. 26 Pt. 3(15)**

F220 Word in s. 217(5) substituted (with effect in accordance with Sch. 12 para. 20(2) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 12 para. 20(1)(c)**

[F221 *Friendly societies*]

Textual Amendments

F221 Cross heading inserted (19.2.1993) by 1992 c. 48, s. 56, **Sch. 9 para. 21(3)**; S.I. 1993/236, **art. 2**

[F222 217A Transfer of assets on incorporation of registered friendly society.

(1) This section and section 217B apply where a registered friendly society is incorporated under the Friendly Societies Act 1992 ("the 1992 Act").

(2) In this section and section 217B—

(a) "the registered society" means the society before the incorporation, and

(b) "the incorporated society" means the society after the incorporation.

(3) For the purposes of corporation tax on chargeable gains—

(a) any asset of the registered society that by virtue of section 6(2) or (3) of the 1992 Act is transferred to the incorporated society,

(b) any asset of a branch of the registered society that by virtue of section 6(4) of the 1992 Act is transferred to the incorporated society, and

(c) any asset of a branch of the registered society that is identified in a scheme under section 6(5) of the 1992 Act,

shall be taken to be disposed of by the registered society or branch and acquired by the incorporated society on the incorporation for a consideration of such amount as to secure that on the disposal neither a gain nor a loss accrues to the registered society or branch.]

Textual Amendments

F222 S. 217A inserted (19.2.1993) by 1992 c. 48, s. 56, **Sch. 9 para. 21(3)**; S.I. 1993/236, **art.2**

Modifications etc. (not altering text)

C71 S. 217A restricted (with effect in accordance with s. 131(4) of the amending Act) by Finance Act 1995 (c. 4), **s. 131(1)**(2)(a)

[F223 217B Rights of members in registered society equated with rights in incorporated society.

(1) In this section, "change of membership" means a change effected by Schedule 4 to the 1992 Act whereby a member of the registered society or of a branch of the registered society becomes a member of the incorporated society or of a branch of the incorporated society.

(2) For the purposes of this Act, a change of membership shall not be taken to involve any disposal or acquisition of an asset by the member concerned, but all the interests and rights in the incorporated society or a branch of the incorporated society that he has immediately after the change, taken together, shall be treated as a single asset which—

(a) was acquired by the first relevant acquisition, and

(b) was added to by any subsequent relevant acquisitions.

(3) In subsection (2) above, "relevant acquisition" means an acquisition by which the member acquired any interest or right in the registered society or a branch of the registered society that he had immediately before the change of membership.**]**

Textual Amendments

F223 S. 217B inserted (19.2.1993) by 1992 c. 48, s. 56, **Sch. 9 para. 21(3)**; S.I. 1993/236, **art.2**

[F224 217C Subsequent disposal of assets by incorporated society etc.

(1) Where any asset acquired on a disposal to which section 217A(3) applies is subsequently disposed of by the incorporated society, section 41 shall apply as if any capital allowance made to the registered society in respect of the asset had been made to the incorporated society.

[F225(2) If the disposal by the incorporated society is in the circumstances mentioned in subsection (8) of section 41, the disposal to which section 217A(3) applies shall for the purposes of that subsection be taken to have been a previous transfer of the asset in such circumstances.**]]**

Textual Amendments

F224 S. 217C inserted (19.2.1993) by 1992 c. 48, s. 56, **Sch. 9 para. 21(3)**; S.I. 1993/236, **art.2**

F225 S. 217C(2) substituted (with effect in accordance with Sch. 29 para. 32(2) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 29 para. 32(1)** (with Sch. 29 para. 46(5))

The Housing Corporation, [F226the Secretary of State] and housing associations

Textual Amendments

F226 Words in s. 218 cross-heading substituted (1.11.1998) by Government of Wales Act 1998 (c. 38), ss. 140, 158(1), **Sch. 16 para. 80**; S.I. 1998/2244, art. 5

218 Disposals of land between the Housing Corporation, [F227the Secretary of State] or Scottish Homes and housing associations.

(1) Where—

(a) in accordance with a scheme approved under section 5 of the M16Housing Act 1964 or paragraph 5 of Schedule 7 to the M17Housing Associations Act 1985, the Housing Corporation acquires from a housing association the association's interest in all the land held by the association for carrying out its objects, or

(b) after the Housing Corporation has so acquired from a housing association all the land so held by it the Corporation disposes to a single housing association of the whole of that land (except any part previously disposed of or agreed to be disposed of otherwise than to a housing association), together with all related assets,

then both parties to the disposal of the land to or, as the case may be, by the Housing Corporation shall be treated for the purposes of corporation tax in respect of chargeable gains as if the land and any related assets disposed of therewith (and each part of that land and those assets) were acquired from the party making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss accrued to that party.

(2) In subsection (1) above, "housing association" has the same meaning as in the M18Housing Associations Act 1985, and "related assets" means, in relation to an acquisition of land by the Housing Corporation, assets acquired by the Corporation in accordance with the same scheme as that land, and in relation to a disposal of land by the Housing Corporation, assets held by the Corporation for the purposes of the same scheme as that land.

(3) This section shall also have effect with the substitution of the words **[**F228"the Secretary of State"**]** for the words "the Housing Corporation" and "the Corporation" in each place where they occur.

(4) This section shall also have effect with the substitution of the words " Scottish Homes " for the words "the Housing Corporation" and "the Corporation" in each place where they occur.

Textual Amendments

F227 Words in s. 218 heading substituted (1.11.1998) by Government of Wales Act 1998 (c. 38), ss. 140, 158(1), **Sch. 16 para. 80**; S.I. 1998/2244, art. 5

F228 Words in s. 218(3) substituted (1.11.1998) by Government of Wales Act 1998 (c. 38), ss. 140, 158(1), **Sch. 16 para. 78**; S.I. 1998/2244, art. 5

Marginal Citations

M16 1964 c. 56.

M17 1985 c. 69.

M18 1985 c. 69.

[F230 219 Disposals by Housing Corporation, [F229 the Secretary of State], Scottish Homes and certain housing associations.

(1) In any case where—

(a) the Corporation disposes of any land to a relevant housing association, or

(b) a relevant housing association disposes of any land to another relevant housing association, or

(c) in pursuance of a direction of the Corporation given under Part I of the Housing Act 1996 or Part I of the Housing Associations Act 1985 (as the case may be) requiring it to do so, a relevant housing association disposes of any of its property, other than land, to another relevant housing association, or

(d) a relevant housing association or an unregistered self-build society disposes of any land to the Corporation,

both parties to the disposal shall be treated for the purposes of tax on chargeable gains as if the land or property disposed of were acquired from the Corporation, relevant housing association or unregistered self-build society making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss accrued to the Corporation or, as the case may be, that association or society.

(2) In this section—

"the Corporation" means the Housing Corporation, **[**F231 the Secretary of State**]** or Scottish Homes;

"relevant housing association" means a registered social landlord within the meaning of Part I of the Housing Act 1996 or a registered housing association within the meaning of the Housing Associations Act 1985;

"unregistered self-build society" has the same meaning as in the Housing Associations Act 1985.**]**

Textual Amendments

F229 Words in s. 219 heading substituted (1.11.1998) by Government of Wales Act 1998 (c. 38), ss. 140, 158(1), **Sch. 16 para. 80**; S.I. 1998/2244, art. 5

F230 S. 219 substituted (1.10.1996) by The Housing Act 1996 (Consequential Provisions) Order 1996 (S.I. 1996/2325), art. 1(2), **Sch. 2 para. 20(2)**

F231 Words in s. 219(2) substituted (1.11.1998) by virtue of Government of Wales Act 1998 (c. 38), ss. 140, 158(1), **Sch. 16 para. 79**; S.I. 1998/2244, art. 5

220 Disposals by Northern Ireland housing associations.

(1) In any case where—

(a) a registered Northern Ireland housing association disposes of any land to another such association, or

(b) in pursuance of a direction of the Department of the Environment for Northern Ireland given under Chapter II of Part VII of the M19 Housing (Northern Ireland) Order 1981 requiring it to do so, a registered Northern Ireland housing association disposes of any of its property, other than land, to another such association,

both parties to the disposal shall be treated for the purposes of tax on chargeable gains as if the land or property disposed of were acquired from the association making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss accrued to that association.

(2) In subsection (1) above "registered Northern Ireland housing association" means a registered housing association within the meaning of Part VII of the Order referred to in paragraph (b) of that subsection.

Marginal Citations

M19 S.I. 1981/156 (N.I.3).

Other bodies

221 Harbour authorities.

(1) For the purposes of this Act any asset transferred on the transfer of the trade shall be deemed to be for a consideration such that no gain or loss accrues to the transferor on its transfer; and for the purposes of Schedule 2 the transferee shall be treated as if the acquisition by the transferor of any asset so transferred had been the transferee's acquisition thereof.

(2) This section applies only where the trade transferred is transferred from any body corporate other than a limited liability company to a harbour authority by or under a certified harbour reorganisation scheme (within the meaning of section 518 of the Taxes Act) which provides also for the dissolution of the transferor.

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

Changes to legislation:
Taxation of Chargeable Gains Act 1992, Part VI is up to date with all changes known to be in force on or before 29 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.