

Status: Point in time view as at 01/04/2006.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Alternative calculation by reference to market value is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1} SCHEDULE 7A

RESTRICTION ON SET-OFF OF PRE-ENTRY LOSSES

Textual Amendments

- F1** Sch. 7A inserted (27.7.1993 with effect as mentioned in s. 88(3) of the amending Act) by 1993 c. 34, c. 88(2), Sch. 8

Alternative calculation by reference to market value

- 5 (1) Subject to paragraph 4(5) above and the following provisions of this paragraph, if—
- (a) an allowable loss accrues on the disposal by any company of any pre-entry asset; and
 - (b) that company makes an election for the purposes of this paragraph in relation to that loss,
- the pre-entry proportion of that loss (instead of being the amount determined under the preceding provisions of this Schedule) shall be whichever is the smaller of the amounts mentioned in sub-paragraph (2) below.
- (2) Those amounts are—
- (a) the amount of any loss which would have accrued if that asset had been disposed of at the relevant time at its market value at that time; and
 - (b) the amount of the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above.
- [In determining for the purposes of sub-paragraph (2)(a) above the amount of any loss ^{F2(2A)} which would have accrued if the asset had been disposed of at the relevant time at its market value at that time—
- (a) it shall be assumed that the amendments of this Act made by section 93(1) to (5) of the Finance Act 1994 (indexation losses) had effect in relation to that disposal and, accordingly,
 - (b) references in those amendments and in subsection (11) of that section to 30th November 1993 shall be read as references to the day on which the relevant time falls.]
- (3) Where no loss would have accrued on the disposal assumed for the purposes of sub-paragraph (2)(a) above, the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above shall be deemed not to have a pre-entry proportion.
- (4) Sub-paragraph (5) below shall apply where—
- (a) an election is made for the purposes of this paragraph in relation to any loss accruing on the disposal (“the real disposal”) of the whole or any part of a pooled asset; and

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- (b) the case is one in which (but for the election) paragraph 3 above would apply for determining the pre-entry proportion of a loss accruing on the real disposal.
- (5) In a case falling within sub-paragraph (4) above, this paragraph shall have effect as if the amount specified in sub-paragraph (2)(a) above were to be calculated—
- (a) on the basis that the disposal which is assumed to have taken place was a disposal of all the assets falling within sub-paragraph (6) below; and
- (b) by apportioning any loss that would have accrued on that disposal between—
- (i) such of the assets falling within paragraph (6) below as are assets to which the real disposal is treated as relating, and
- (ii) the remainder of the assets so falling,
- according to the proportions of any pooled asset whose disposal is assumed which would have been, respectively, represented by assets mentioned in sub-paragraph (i) above and by assets mentioned in sub-paragraph (ii) above, and where assets falling within sub-paragraph (6) below have different relevant times there shall be assumed to have been a different disposal at each of those times.
- (6) Assets fall within this sub-paragraph if—
- (a) immediately before the time which is the relevant time in relation to those assets, they were comprised in a pooled asset which consisted of or included assets which fall to be treated for the purposes of paragraph 3 above as—
- (i) comprised in the part of the pooled asset referable to pre-entry assets; and
- (ii) disposed of on the real disposal;
- (b) they were also comprised in such a pooled asset immediately after that time; and
- (c) the pooled asset in which they were so comprised immediately after that time was held by a member of the relevant group.
- (7) Where—
- (a) an election is made under paragraph 4(6) above requiring the determination by reference to this paragraph of the alternative pre-entry loss accruing on the disposal of any assets comprised in a pooled asset, and
- (b) in pursuance of that election any amount of the loss that would have accrued on an assumed disposal is apportioned in accordance with sub-paragraph (5) above to assets (“the relevant assets”) which—
- (i) are treated for the purposes of that determination as assets to which the disposal related, but
- (ii) otherwise continue after the disposal to be treated as incorporated in the part of that pooled asset which is referable to pre-entry assets,
- then, on any further application of this paragraph for the purpose of determining the pre-entry proportion of the loss accruing on a subsequent disposal of assets comprised in that pooled asset, that amount (without being apportioned elsewhere) shall be deducted from so much of the loss accruing on the same assumed disposal as, apart from the deduction, would be apportioned to the relevant assets on that further application of this paragraph.
- (8) An election under this paragraph with respect to any loss shall be made by the company in question by notice to the inspector given within—

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- (a) the period of two years beginning with the end of the accounting period of that company in which the disposal is made on which the loss accrues; or
- (b) such longer period as the Board may by notice allow.]

Textual Amendments

- F2** Sch. 7A para. 5(2A) inserted (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 93\(10\)](#) (with [Sch. 12](#))

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