

Status: Point in time view as at 01/01/2007.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Pre-entry proportion of losses on pre-entry assets is up to date with all changes known to be in force on or before 16 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

Pre-entry proportion of losses on pre-entry assets

- 2 (1) Subject to paragraphs 3 to 5 below, the pre-entry proportion of an allowable loss accruing on the disposal of a pre-entry asset shall be whatever would be the allowable loss accruing on that disposal if that loss were the sum of the amounts determined, for every item of relevant allowable expenditure, according to the following formula—
- $$A \times BC \times DE$$
- (2) In sub-paragraph (1) above, in relation to any disposal of a pre-entry asset—
A is the total amount of the allowable loss;
[^{F2}B is the amount of the item of relevant allowable expenditure for which an amount falls to be determined under this paragraph;
C is the total amount of all the relevant allowable expenditure;]
D is the length of the period beginning with the relevant pre-entry date and ending with the relevant time or, if that date is after that time, nil; and
E is the length of the period beginning with the relevant pre-entry date and ending with the day of the disposal.
- (3) In sub-paragraph (2) above “the relevant pre-entry date”, in relation to any item of relevant allowable expenditure, means whichever is the later of—
(a) the date on which that item of expenditure is, or (on the [^{F3}assumptions applying by virtue of sub-paragraphs (4) to (6B)] below) would be, treated for the purposes of section 54 as having been incurred; and
(b) 1st April 1982.
- (4) Where any asset (“the second asset”) is treated by virtue of section 127 as the same as another asset (“the first asset”) previously held by any company, this paragraph and (so far as applicable) paragraph 3 below shall have effect, ^{F4}... —
(a) as if any item of relevant allowable expenditure consisting in consideration given for the acquisition of the second asset had been incurred at the same time as the expenditure consisting in the consideration for the acquisition of the first asset; and

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(b) where there is more than one such time as if that item were incurred at those different times in the same proportions as the consideration for the acquisition of the first asset.

(5) Without prejudice to sub-paragraph (4) above, this paragraph shall have effect in relation to any asset which—

- (a) was held by a company at the time when it became a member of the relevant group, and
- (b) is treated as having been acquired by that company for such a consideration as secured that on the disposal in pursuance of which it was acquired neither a gain nor a loss accrued,

as if that company and every person who acquired that asset or the equivalent asset at a material time had been the same person and, accordingly, as if the asset had been acquired by that company when it or the equivalent asset was acquired by the first of those persons to have acquired it at a material time and the time at which any expenditure had been incurred were to be determined accordingly.

(6) In sub-paragraph (5) above, the reference, in relation to any asset, to a material time is a reference to any time which—

- (a) is before the occasion on which the company in question is treated as having acquired the asset for such a consideration as is mentioned in that sub-paragraph; and
- (b) is or is after the last occasion before that occasion on which any person acquired that asset or the equivalent asset otherwise than by virtue of an acquisition which—
 - (i) is treated as an acquisition for such a consideration; or
 - (ii) is the acquisition by virtue of which any asset is treated as the equivalent asset;

and this paragraph shall have effect in relation to any asset to which that sub-paragraph applies without regard to the provisions of section 56(2).

[^{F5}(6A) Notwithstanding anything in section 56(2), where in the case of the disposal of any pre-entry asset—

- (a) any company has at any time between the relevant time and the time of the disposal acquired that asset or the equivalent asset, and
- (b) the acquisition was either an acquisition in pursuance of a disposal on which there is treated by virtue of section 171 as having been neither a gain nor a loss accruing or an acquisition by virtue of which an asset is treated as the equivalent asset,

the items of relevant allowable expenditure and the times when those items shall be treated as having been incurred shall be determined for the purposes of this paragraph on the assumptions specified in sub-paragraph (6B) below.

(6B) Those assumptions are that—

- (a) the company by reference to which the asset in question is a pre-entry asset, and
- (b) the company mentioned in sub-paragraph (6A) above and every other company which has made an acquisition which, in relation to the disposal of that asset, falls within that sub-paragraph,

were the same person and, accordingly, that the pre-entry asset had been acquired by the company disposing of it at the time when it or the equivalent asset would

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have been treated for the purposes of this paragraph as acquired by the company mentioned in paragraph (a) above.

(7) In sub-paragraphs (5) to (6B) above the references to the equivalent asset, in relation to another asset acquired or disposed of by any company, are references to any asset which falls in relation to that company to be treated (whether by virtue of paragraph 1(8) above or otherwise) as the same as the other asset or which would fall to be so treated after applying, as respects other assets, the assumptions for which those sub-paragraphs provide.]

(8) The preceding provisions of this paragraph and (so far as applicable) paragraph 3 below shall have effect where—

- (a) a loss accrues to any company under section 116(10)(b), and
- (b) the old asset consists in or is treated for the purposes of that paragraph as including pre-entry assets,

as if the disposal on which the loss accrues were that disposal of the old asset which is assumed to have been made for the purposes of the calculation required by section 116(10)(a).

[Where by virtue of section 55(8) the allowable loss accruing on the disposal of a ^{F6}(8A) pre-entry asset, or any part of the loss, is attributable to an amount (“the rolled-up amount”) of rolled-up indexation (as defined in section 55(9) to (11)), then, for the purposes of this paragraph—

- (a) the total amount of all the relevant allowable expenditure shall be treated as increased by the rolled-up amount, and
- (b) the amount of each item of relevant allowable expenditure shall be treated as increased by so much (if any) of the rolled-up amount as is attributable to that item.

(8B) Where—

- (a) section 56(3) applies on the disposal of a pre-entry asset on which an allowable loss accrues, and
- (b) in accordance with that subsection, the total amount of all the relevant allowable expenditure is reduced by any amount (“the global reduction”),

the amount of each item of relevant allowable expenditure shall be treated for the purposes of this paragraph as reduced by so much (if any) of the global reduction as is attributable to that item.]

(9) In this paragraph—

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“relevant allowable expenditure”, in relation to any allowable loss, means the expenditure which falls by virtue of section 38(1)(a) or (b) to be taken into account in the computation of that loss.]

Textual Amendments

F2 Words in Sch. 7A para. 2(2) substituted (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 93\(8\)\(a\)](#) (with [Sch. 12](#))

F3 Words in Sch. 7A para. 2(3)(a) substituted (with effect in accordance with s. 94(4) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 94\(2\)](#)

F4 Words in Sch. 7A para. 2(4) repealed (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 93\(8\)\(b\)](#), [Sch. 26 Pt. V\(8\)](#) (with [Sch. 12](#))

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| <p>F5 Sch. 7A para. 2(6A)(6B)(7) substituted for Sch. 7A para. 2(7) (with effect in accordance with s. 94(4) of the amending Act) by Finance Act 1994 (c. 9), s. 94(2)</p> <p>F6 Sch. 7A para. 2(8A)(8B) inserted (with effect in accordance with s. 93(11) of the amending Act) by Finance Act 1994 (c. 9), s. 93(8)(c) (with Sch. 12)</p> <p>F7 Words in Sch. 7A para. 2(9) repealed (with effect in accordance with s. 93(11) of the amending Act) by Finance Act 1994 (c. 9), s. 93(8)(d), Sch. 26 Pt. V(8) (with Sch. 12)</p> |
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