

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, Paragraph 7 is up to date with all changes known to be in force on or before 23 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup> 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

##### *Gains from which pre-entry losses are to be deductible*

- 7 (1) A pre-entry loss that accrued to a company before it became a member of the relevant group shall be deductible from a chargeable gain accruing to that company if the gain is one accruing—
- (a) on a disposal made by that company before the date on which it became a member of the relevant group (“the entry date”);
  - (b) on the disposal of an asset which was held by that company immediately before the entry date; or
  - [<sup>F2</sup>(c) on the disposal of any asset in respect of which the conditions in sub-paragraph (1A) are met.]
- [ The conditions referred to in sub-paragraph (1)(c) are—
- <sup>F3</sup>(1A) (a) that the asset was acquired, on or after the entry date, by—
- (i) the company to which the pre-entry loss accrued (“company A”), or
  - (ii) a company which, at the time of the acquisition, was a group company of company A,
- from a person who at the time of the acquisition was not a group company of company A, and
- (b) that the asset has not, since its acquisition from that person, been used or held for any purposes other than those of a trade or business which—
- (i) was being carried on by company A immediately before the entry date, and
  - (ii) continued until the disposal to be carried on by company A or a company which, when it carried on the trade or business, was a group company of company A.
- (1B) For the purposes of sub-paragraph (1A), a company is a “group company of company A” at any time when it is a member of a group of companies of which company A is also a member.
- (1C) Where a company, having become a member of the relevant group, subsequently becomes a member of another group (“the new group”)—

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- (a) sub-paragraph (1) continues to have effect, in relation to any loss which accrued to the company before it became a member of the relevant group, by reference to the date on which it became such a member, and
  - (b) accordingly, that sub-paragraph does not apply separately in relation to the loss by reason of it also having accrued to the company before it became a member of the new group.]
- <sup>F4</sup>(2) .....
- (3) Where two or more companies become members of the relevant group at the same time and those companies were all members of the same group of companies immediately before they became members of the relevant group, then <sup>F5</sup>... —
- (a) an asset shall be treated for the purposes of sub-paragraph (1)(b) above as held, immediately before it became a member of the relevant group, by the company to which the pre-entry loss in question accrued if that company is one of those companies and the asset was in fact so held by another of those companies;
  - <sup>F6</sup>(b) .....; and
  - (c) the acquisition of an asset shall be treated for the purposes of [<sup>F7</sup>sub-paragraph (1A)] above as an acquisition by the company to which the pre-entry loss in question accrued if that company is one of those companies and the asset was in fact acquired (whether before or after they became members of the relevant group) by another of those companies.
- <sup>F8</sup>(4) Sub-paragraphs (4A) and (4B) apply for determining for the purposes of this paragraph whether an asset on the disposal of which a chargeable gain accrues was an asset held by a company immediately before the entry date (a “pre-entry asset”).
- (4A) Except as provided by sub-paragraph (4B), an asset is not a pre-entry asset if—
- (a) the company which held the asset at the entry date is not the company which makes the disposal, and
  - (b) since the entry date that asset has been disposed of otherwise than by a disposal to which section 171 applies.
- (4B) Without prejudice to sub-paragraph (4C), where, on a disposal to which section 171 does not apply—
- (a) an asset would cease to be a pre-entry asset by virtue of sub-paragraph (4A), but
  - (b) the company making the disposal retains an interest in or over the asset in question,
- that interest is a pre-entry asset.
- (4C) For the purposes of this paragraph—
- (a) an asset acquired or held by a company at any time and an asset held at a later time by that company, or by any company which is or has been a member of the same group of companies as that company, is to be treated as the same asset if the value of the second asset is derived in whole or in part from the first asset, and
  - (b) if—
    - (i) any asset is treated (whether by virtue of paragraph (a) or otherwise) as the same as an asset held by a company at a later time, and

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- (ii) the first asset would have been a pre-entry asset in relation to that company,  
the second asset is also to be treated as a pre-entry asset in relation to that company;  
and paragraph (a) applies, in particular, where the second asset is a freehold and the first asset is a leasehold the lessee of which acquires the reversion.]
- (5) Subject to sub-paragraph (6) below, where a gain accrues on the disposal of the whole or any part of—
- (a) any asset treated as a single asset but comprising assets only some of which were held at the time mentioned in paragraph (b) of sub-paragraph (1) <sup>F9</sup>... above, or
  - (b) an asset which is treated as held at that time by virtue of a provision requiring an asset which was not held at that time to be treated as the same as an asset which was so held,
- a pre-entry loss shall be deductible by virtue of paragraph (b) of sub-paragraph (1) <sup>F9</sup>... above from the amount of that gain to the extent only of such proportion of that gain as is attributable to assets held at that time or, as the case may be, represents the gain that would have accrued on the asset so held.
- (6) Where—
- (a) a chargeable gain accrues by virtue of subsection (10) of section 116 on the disposal of a qualifying corporate bond,
  - (b) that bond was not held as required by paragraph (b) of sub-paragraph (1) <sup>F10</sup>... above at the time mentioned in that paragraph, and
  - (c) the whole or any part of the asset which is the old asset for the purposes of that section was so held,
- the question whether that gain is one accruing on the disposal of an asset the whole or any part of which was held by a particular company at that time shall be determined for the purposes of this paragraph as if the bond were deemed to have been so held to the same extent as the old asset.]

#### Textual Amendments

- F2** Sch. 7A para. 7(1)(c) substituted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(2\)](#)
- F3** Sch. 7A para. 7(1A)-(1C) inserted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(3\)](#)
- F4** Sch. 7A para. 7(2) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(4\)](#)
- F5** Words in Sch. 7A para. 7(3) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(5\)\(a\)](#)
- F6** Sch. 7A para. 7(3)(b) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(5\)\(b\)](#)
- F7** Words in Sch. 7A para. 7(3)(c) substituted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(5\)\(c\)](#)
- F8** Sch. 7A para. 7(4)-(4C) substituted for Sch. 7A para. 7(4) (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(6\)](#)
- F9** Words in Sch. 7A para. 7(5) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(7\)](#)

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**F10** Words in Sch. 7A para. 7(6)(b) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(8\)](#)

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