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## SCHEDULES

### SCHEDULE 33

#### TAXATION PROVISIONS

#### PART I

#### TRANSFERS FROM LONDON REGIONAL TRANSPORT TO TRANSPORT FOR LONDON

##### *Interpretation*

- 1 In this Part of this Schedule—
- “qualifying transfer” means a transfer of property, rights or liabilities by virtue of a transfer instrument;
  - “successor” means the body to which property, rights or liabilities are transferred by virtue of a transfer instrument;
  - “transfer date”, in the case of any transfer, means the date on which the transfer takes effect;
  - “transfer instrument” means—
    - (a) an order under section 408 or 411 of this Act;
    - (b) a scheme under section 409 of this Act; or
    - (c) an instrument or agreement which is certified to the Commissioners of Inland Revenue by London Regional Transport as made in pursuance of such an order or scheme;
  - “transferor” in relation to any qualifying transfer, means the body from which the property, rights or liabilities in question are transferred by virtue of the transfer instrument in question.

##### *Chargeable gains: general*

- 2 (1) For the purposes of the <sup>M1</sup>Taxation of Chargeable Gains Act 1992, where there is a qualifying transfer—
- (a) from London Regional Transport or any of its subsidiaries,
  - (b) to Transport for London or any of its immediate subsidiaries,
- the transfer of the property, rights and liabilities to which it relates shall be deemed, in relation to the successor as well as the transferor, to be for a consideration such that neither a gain nor a loss accrues to the transferor.
- (2) For the purposes of this paragraph a company is an “immediate subsidiary” of Transport for London if—
- (a) it is a subsidiary of Transport for London; but
  - (b) it is not a subsidiary of another company which is a subsidiary of Transport for London.

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#### Marginal Citations

M1 1992 c. 12.

#### Group transactions

- 3 (1) For the purposes of section 179 of the <sup>M2</sup>Taxation of Chargeable Gains Act 1992 (company ceasing to be a member of a group) where, by virtue of a qualifying transfer from London Regional Transport or a subsidiary of London Regional Transport to Transport for London or a subsidiary of Transport for London, a company—
- (a) ceases to be a member of the same group of companies as London Regional Transport, but
  - (b) becomes a member of a group of companies whose principal company (“the new principal”), whether it is the company or not, is a subsidiary of Transport for London,
- the company shall not under that section be treated, in consequence of having so ceased, as at any time having sold, and immediately reacquired, any asset acquired from a company which is or has been a member of the former group.
- (2) Subject to sub-paragraph (3) below, where sub-paragraph (1) above applies, or but for subsection (2) of section 179 of the <sup>M3</sup>Taxation of Chargeable Gains Act 1992 would apply, as respects any acquisition of any asset and the company that acquired the asset ceases to be a member of the same group of companies as the new principal, that section shall have effect as if—
- (a) that asset had been acquired from the body which is the new principal; and
  - (b) the company had been a member of the same group of companies as that body when it was so acquired;
- and where, for the purposes of that subsection, this sub-paragraph applies as respects more than one of a number of successive acquisitions of any asset, the fact that each is to be treated as an acquisition from the same person shall be disregarded.
- (3) Where—
- (a) any asset has been acquired by any company (“the leaving company”) from another company,
  - (b) both of those companies cease at the same time to be members of the same group of companies as the new principal, and
  - (c) those companies are associated companies both immediately before and immediately after that time and at the time of the acquisition of the asset by the leaving company,
- sub-paragraph (2) above shall not apply as respects the acquisition of the asset by the leaving company.
- (4) Expressions used in this paragraph and in section 179 of the <sup>M4</sup>Taxation of Chargeable Gains Act 1992 have the same meaning in this paragraph as in that section.

#### Marginal Citations

M2 1992 c. 12.

M3 1992 c. 12.

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**M4** 1992 c. 12.

### *Capital allowances*

- 4 (1) This paragraph applies in relation to any qualifying transfer of relevant assets—
- (a) from London Regional Transport or any of its subsidiaries,
  - (b) to Transport for London or any of its subsidiaries.
- (2) In this paragraph “relevant assets”, in the case of any qualifying transfer, means assets by reference to which capital allowances may be or have been made to the transferor.
- (3) Where this paragraph applies in relation to a qualifying transfer of relevant assets—
- (a) there shall be made to or on the successor in accordance with the [<sup>F1</sup>the Capital Allowances Act 2001] all such allowances and charges as would, if the transferor had continued to carry on its trade or other activities, have fallen to be made to or on the transferor in respect of those assets; and
  - (b) the amount of any such allowance or charge shall be computed on a just basis as if—
    - (i) the acquisition of those assets by the transferor had been their acquisition by the successor for the purposes of the trade (if any) to be carried on by the successor on and after the transfer date;
    - (ii) the successor had been carrying on its trade (if any) at the time of that acquisition; and
    - (iii) everything done by or to the transferor in respect of those assets had been done by or to the successor (but so that the qualifying transfer itself, so far as it relates to any assets in use for the purpose of the trade, shall not be treated as giving rise to any such allowance or charge).
- (4) The amounts falling to be taken into account in relation to the transferor as expenditure by reference to which capital allowances may be made shall be reduced, in relation to accounting periods beginning on or after the transfer date, by such amount as is just, taking into account the successor’s entitlement to capital allowances under sub-paragraph (3) above.
- (5) The transferor’s entitlement to capital allowances for its accounting period in which the transfer date falls shall be reduced by an amount which is just.
- (6) In the case of a qualifying transfer of relevant assets to Transport for London—
- (a) in consequence of subsection (1) of section 419 of this Act, no allowances or charges are to be made to or on Transport for London by virtue of sub-paragraph (3) above; but
  - (b) sub-paragraphs (4) and (5) above shall have effect in relation to the transferor as if paragraph (a) had been omitted from that subsection.
- (7) If any dispute arises as to the amount which is just for the purposes of sub-paragraph (3), (4) or (5) above—
- (a) the Commissioners of Inland Revenue, the transferor or the successor may refer the dispute to the Secretary of State; and
  - (b) on any such reference, the amount which is just shall be such amount as the Secretary of State may determine with the approval of the Treasury.
- (8) Neither—

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- (a) section 343(2) of the Taxes Act 1988 (company reconstructions without change of ownership), nor
- (b) [<sup>F2</sup>section 266 of the Capital Allowances Act 2001 (election where predecessor and successor are connected persons)],

shall have effect by virtue of a qualifying transfer in relation to which this paragraph applies.

[<sup>F3</sup>(9) Except as provided by this paragraph, a qualifying transfer in relation to which this paragraph applies shall be taken for the purposes of the Capital Allowances Act 2001 not to give rise to—

- (a) any writing-down allowances, balancing allowances or balancing charges under Chapter 5 of Part 2 of that Act (plant and machinery allowances and charges),
- (b) any disposal value being treated as received for the purposes of that Chapter,
- (c) any qualifying expenditure being treated as incurred for the purposes of that Chapter, or
- (d) any writing-down allowances, balancing allowances or balancing charges under Part 3 of that Act (industrial buildings allowances).

(10) In this paragraph and paragraph 10 below “the Capital Allowances Act 2001” includes, where the context admits, enactments which under the Taxes Act 1988 are to be treated as contained in the Capital Allowances Act 2001.]

#### Textual Amendments

- F1** Words in Sch. 33 para. 4(3) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 105(1)**
- F2** Words in Sch. 33 para. 4(8)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 105(2)**
- F3** Sch. 33 para. 4(9)(10) substituted for Sch. 33 para. 4(9) (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 105(3)**

#### *Preparatory transfers*

- 5 (1) Paragraph 4 above shall have effect in relation to a preparatory transfer of relevant assets as it has effect in relation to a qualifying transfer in relation to which that paragraph applies.
- (2) For the purposes of this paragraph, a “preparatory transfer” is a transfer of property, rights or liabilities—
- (a) from London Regional Transport to a subsidiary of London Regional Transport,
  - (b) from a subsidiary of London Regional Transport to London Regional Transport, or
  - (c) from a subsidiary of London Regional Transport to another such subsidiary, by virtue of an instrument, or in pursuance of an agreement, which is certified to the Commissioners of Inland Revenue by London Regional Transport as made in preparation for, or in pursuance of, a qualifying transfer falling within subparagraph (3) below.

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- (3) A qualifying transfer falls within this sub-paragraph if it is a transfer of shares in a company which—
- (a) immediately before the transfer is a subsidiary of London Regional Transport; but
  - (b) as a result of the transfer becomes instead a subsidiary of Transport for London.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 334(2A)-(2E) substituted for s. 334(2)-(6) by [2023 c. 55 s. 95\(2\)](#)
- s. 334(9)-(11) inserted by [2023 c. 55 s. 95\(3\)](#)
- s. 337(1A) inserted by [2023 c. 55 s. 96\(1\)\(c\)](#)
- s. 337(2)(ca) inserted by [2023 c. 55 Sch. 6 para. 15](#)
- Sch. 23 para. 1(3A) inserted by [2023 c. 55 s. 244\(2\)](#)
- Sch. 23 para. 3A3B and cross-heading inserted by [2023 c. 55 s. 244\(3\)](#)
- Sch. 23 para. 4(2A)(2B) inserted by [2023 c. 55 s. 244\(4\)](#)
- Sch. 23 para. 4A and cross-heading inserted by [2023 c. 55 s. 244\(6\)](#)