

Status: Point in time view as at 24/07/2002.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, Part 7. (See end of Document for details)

SCHEDULES

SCHEDULE 29

GAINS AND LOSSES OF A COMPANY FROM INTANGIBLE FIXED ASSETS

Modifications etc. (not altering text)

C1 Sch. 29 applied (with modifications) (15.8.2002) by [S.I. 2002/1967](#), **regs. 3-6**

PART 7

ROLL-OVER RELIEF IN CASE OF REALISATION AND REINVESTMENT

The relief

- 37 (1) This Part provides for relief where a company realises an intangible fixed asset (the “old asset”) and incurs expenditure on other intangible fixed assets (“other assets”).
- (2) A company is entitled to relief under this Part only if—
- the conditions in paragraph 38 are met in relation to the old asset and its realisation,
 - the conditions in paragraph 39 are met in relation to the expenditure on other assets, and
 - the company claims the relief in accordance with paragraph 40.

Conditions to be met in relation to the old asset and its realisation

- 38 (1) The following conditions must be met in relation to the old asset and its realisation—
- the asset must have been a chargeable intangible asset of the company throughout the period during which it was held by the company; and
 - the proceeds of realisation of the asset must exceed—
 - the cost of the asset, or
 - in the case of a part realisation, the appropriate proportion of the cost of the asset, or
 - in the case of the realisation of an asset that has been the subject of a part realisation, the adjusted cost of the asset.
- (2) If the asset was a chargeable intangible asset of the company—
- at the time of its realisation, and
 - for a substantial part of, but not throughout, the period during which it was held by the company,
- a part of the asset representing the time for which it was a chargeable intangible asset shall be treated for the purposes of this Part as if it were a separate asset in relation to which the condition in sub-paragraph (1)(a) was wholly met.

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Any apportionment necessary for this purpose shall be made on a just and reasonable basis.

- (3) In sub-paragraph (1)(b) “the cost of the asset” means the total of the capitalised expenditure on the asset recognised for tax purposes.

For the calculation of the appropriate proportion or adjusted cost, see paragraph 42.

- (4) The condition in sub-paragraph (1)(b) is necessarily met if the asset has no cost as defined above.

Conditions to be met in relation to the expenditure on other assets

- 39 (1) The following conditions must be met in relation to the expenditure on other assets—
- (a) the expenditure must be incurred in the period—
 - (i) beginning twelve months before the date of realisation of the old asset or at such earlier time as the Inland Revenue may by notice allow, and
 - (ii) ending three years after the date of realisation of the old asset or at such later time as the Inland Revenue may by notice allow;
 - (b) the expenditure must be capitalised by the company for accounting purposes; and
 - (c) the assets on which the expenditure is incurred must be chargeable intangible assets in relation to the company immediately after the expenditure is incurred.
- (2) For the purposes of this paragraph expenditure is regarded as incurred when it is recognised for accounting purposes.

Claim for relief

- 40 A claim by a company for relief under this Part must specify—
- (a) the old assets to which the claim relates, and
 - (b) in relation to each old asset—
 - (i) the expenditure on other assets by reference to which relief is claimed, and
 - (ii) the amount of the relief claimed.

How the relief is given: general

- 41 (1) A company that is entitled to, and claims, relief under this Part is treated for the purposes of this Schedule as if—
- (a) the proceeds of realisation of the old asset, and
 - (b) the cost recognised for tax purposes of acquiring the other assets,
- were each reduced by the amount available for relief.
- (2) If the amount of qualifying expenditure on other assets is equal to or greater than the proceeds of realisation of the old asset, the amount available for relief is the amount by which the proceeds of realisation exceed the cost of the old asset.

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- (3) If the amount of qualifying expenditure on other assets is less than the proceeds of realisation of the old asset, the amount available for relief is the amount (if any) by which the qualifying expenditure on other assets exceeds the cost of the old asset.
- (4) In this paragraph—
- (a) “qualifying expenditure” means expenditure in relation to which the conditions in paragraph 39 are met;
 - (b) “the cost of the old asset” means the total of the capitalised expenditure on the asset recognised for tax purposes;
 - (c) the references to the cost of the old asset shall be read—
 - (i) in the case of a part realisation, as references to the appropriate proportion of the cost, and
 - (ii) in the case of the realisation of an asset that has been the subject of a part realisation, as references to the adjusted cost.
- For the calculation of the appropriate proportion and the adjusted cost, see paragraph 42.
- (5) The relief does not affect the treatment for any purpose of the Taxes Acts of any other party to any transaction involved in the realisation of the old asset or the expenditure on the other assets.

Determination of appropriate proportion or adjusted cost

- 42 (1) Any reference in paragraph 38 or 41 to the appropriate proportion of the cost of the old asset in the case of a part realisation is to the proportion given by:

$$\frac{\text{Reduction in Accounting Value}}{\text{Previous Accounting Value}}$$

where—

Reduction in Accounting Value is the difference between the accounting value immediately before the part realisation compared with that immediately after the part realisation; and

Previous Accounting Value is the accounting value immediately before the part realisation.

- (2) In the case of an asset that has previously been the subject of a part realisation the reference in sub-paragraph (1) to the cost of the old asset shall be read as a reference to the adjusted cost.
- (3) Any reference in paragraph 38 or 41, or sub-paragraph (2) above, to the adjusted cost in the case where the old asset has previously been the subject of a part realisation is to the amount given by deducting from the cost of the old asset the total of the amounts given by sub-paragraphs (1) and (2) above in relation to earlier part realisations.

Declaration of provisional entitlement to relief

- 43 (1) A company realising an intangible fixed asset may make a declaration of provisional entitlement to relief under this Part.

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- (2) A declaration of provisional entitlement is a declaration by the company, in its company tax return for the accounting period in which the realisation takes place, that the company—
- (a) has realised an intangible fixed asset,
 - (b) proposes to meet the conditions for relief under this Part, and
 - (c) is accordingly provisionally entitled to relief of a specified amount.
- (3) While the declaration continues in force, this Part applies as if the conditions for relief under this Part were met.
- (4) A declaration of provisional entitlement ceases to have effect if, or to the extent that—
- (a) it is withdrawn, or
 - (b) it is superseded by a claim for relief under this Part.
- (5) So far as not previously withdrawn or superseded, a declaration of provisional entitlement ceases to have effect four years after the end of the accounting period in which the realisation took place.
- (6) On a declaration of provisional entitlement ceasing to have effect, in whole or in part, all necessary adjustments shall be made, by assessment or otherwise.

This applies notwithstanding any limitation on the time within which assessments or amendments may be made.

Realisation and reacquisition

- 44 This Part applies where a company realises an asset and subsequently reacquires it as if what is reacquired were a different asset from that previously realised.

Deemed realisations and deemed acquisitions to be disregarded

- 45 (1) This Part does not apply in relation to a deemed realisation of an asset except as provided by—
- (a) paragraph 65 (application of roll-over relief in relation to deemed realisation as a result of degrouping), or
 - (b) paragraph 67 (application of roll-over relief in relation to reallocated degrouping charge).
- (2) No account shall be taken for the purposes of this Part of any deemed reacquisition.

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