

*Status: Point in time view as at 06/04/2005.*

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

## SCHEDULES

### SCHEDULE 7 U.K.

Section 43

#### CHARGEABLE GAINS: ROLL-OVER OF DEGROUPING CHARGE: MODIFICATION OF ENACTMENTS

The following Schedule is inserted after Schedule 7AA to the Taxation of Chargeable Gains Act 1992 (c. 12)—

#### “SCHEDULE 7AB U.K.

##### ROLL-OVER OF DEGROUPING CHARGE: MODIFICATION OF ENACTMENTS

#### *Introductory*

- 1 (1) This Schedule sets out how sections 152 and 153 and other related enactments are modified for the purposes of section 179B (roll-over of degrouping charge on business assets).
- (2) In the enactments as so modified—
  - “company A” and “company B” have the same meanings as in section 179;
  - “relevant asset” means the asset mentioned in section 179B(1);
  - “deemed sale” means the sale of the relevant asset that is treated as taking place by virtue of section 179(3) or (6);
  - “deemed sale consideration” means the amount for which company A is treated as having sold the relevant asset;
  - “time of accrual” means—
    - (a) in a case where section 179(3) applies, the time at which, by virtue of section 179(4), the gain or loss accruing on the deemed sale is treated as accruing to company A;
    - (b) in a case where section 179(6) applies, the latest time at which the company satisfies the conditions in section 179(7).

#### *Section 152*

- 2 (1) For subsection (1) of section 152 (roll-over relief) substitute—
  - (“) If—
    - (a) company B was carrying on a trade at the time when it disposed of the relevant asset to company A,
    - (b) the relevant asset was used, and used only, for the purposes of that trade throughout the period when it was owned by company B,
    - (c) an amount that is not less than the deemed sale consideration is applied by company A in acquiring other assets, or an interest in other assets (“the new assets”),
    - (d) on acquisition the new assets are taken into use, and used only, for the purposes of a trade carried on by company A,

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- (e) both the relevant asset and the new assets are within the classes of assets listed in section 155, and
- (f) company A makes a claim as respects the amount applied as mentioned in paragraph (c),

company A shall be treated for the purposes of this Act as if the deemed sale consideration were (if otherwise of a greater amount) reduced to such amount as would secure that neither a gain nor a loss accrues to the company in respect of the deemed sale.

- (1A) Where subsection (1) applies, company A shall be treated for the purposes of this Act as if the amount or value of the consideration for the acquisition of, or of the interest in, the new assets were reduced by the same amount as the amount of the reduction under that subsection.
- (1B) Subsection (1) does not affect the value at which company A is treated by virtue of section 179 as having reacquired the relevant asset.
- (1C) Subsection (1A) does not affect the treatment for the purposes of this Act of the other party to the transaction involving the new assets. "
- (2) In subsection (2) of that section (application of subsection (1) where old assets held on 6th April 1965)—
  - (a) for “subsection (1)(a)” substitute “subsection (1)”;
  - (b) for “subsection (1)(b)” substitute “subsection (1A)”.
- (3) In subsection (3) of that section (reinvestment period), for “after the disposal of, or of the interest in, the old assets” substitute “after the time of accrual”.
- (4) In subsection (5) of that section (new assets must be acquired for purposes of trade), for “the trade” substitute “the trade carried on by company A”.
- (5) In subsection (6) of that section (apportionment where part of building etc not used for purposes of trade), omit “or disposal” and insert at the end “or of the deemed sale consideration”.
- (6) After that subsection insert—
  - (“ In subsection (6) “period of ownership”, in relation to the relevant asset, means the period during which the asset was owned by company B. ”.
- (7) In subsection (7) of that section (apportionment where old assets not used for purposes of trade throughout period of ownership)—
  - (a) for the words from the beginning to “period of ownership” substitute “If the relevant asset was not used for the purposes of the trade carried on by company B throughout the period during which it was owned by that company”;
  - (b) for the words from “or disposal” to the end substitute “of the asset or of the deemed sale consideration”.
- (8) In subsection (9) of that section (“period of ownership” does not include period before 31st March 1982), for “ “period of ownership” does not” substitute “the references to the period during which the relevant asset was owned by company B do not”.
- (9) In subsection (11) of that section (apportionment of consideration for assets not all of which are subject of claim), omit “or disposal” and insert at the end “; and similarly in relation to the deemed sale consideration”.

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### **Section 153**

3 For subsection (1) of section 153 (assets only partly replaced) substitute—

(“) If—

- (a) an amount that is less than the deemed sale consideration is applied by company A in acquiring other assets, or an interest in other assets (“the new assets”),
- (b) the difference between the deemed sale consideration and the amount so applied (“the shortfall”) is less than the amount of the gain (whether all chargeable gain or not) accruing on the deemed sale,
- (c) the conditions in paragraphs (a), (b), (d) and (e) of section 152(1) are satisfied, and
- (d) company A makes a claim as respects the amount applied as mentioned in paragraph (a) above,

company A shall be treated for the purposes of this Act as if the amount of the gain accruing as mentioned in paragraph (b) above were reduced to the same amount as the shortfall (with a proportionate reduction, if not all of that gain is chargeable gain, in the amount of the chargeable gain).

(1A) Where subsection (1) applies, company A shall be treated for the purposes of this Act as if the amount or value of the consideration for the acquisition of, or of the interest in, the new assets were reduced by the amount by which the gain is reduced (or as the case may be the amount by which the chargeable gain is proportionately reduced) under that subsection.

(1B) Subsection (1) does not affect the value at which company A is treated by virtue of section 179 as having reacquired the relevant asset.

(1C) Subsection (1A) does not affect the treatment for the purposes of this Act of the other party to the transaction involving the new assets. ”.

### **Section 153A**

4 (1) In subsection (1) of section 153A (provisional application of sections 152 and 153)—

- (a) for the words from “a person” to “takes place” substitute “company A declares, in its return for the chargeable period in which the time of accrual falls”;
- (b) for “the trade” substitute “a trade carried on by company A”;
- (c) for “the whole or any specified part of the consideration” substitute “an amount equal to the deemed sale consideration or any specified part of that amount”.

(2) In subsection (5) of that section (meaning of “relevant day”), for paragraphs (a) and (b) substitute “the fourth anniversary of the last day of the accounting period of company A in which the time of accrual falls”.

### **Section 155**

5 In section 155 (relevant classes of assets), in Head A of Class 1, after paragraph 2 insert — “In Head A “the trade” means—

- (a) for the purposes of determining whether the relevant asset is within this head, the trade carried on by company B;
- (b) for the purposes of determining whether the new assets are within this head, the trade carried on by company A. ”.

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### **Section 159**

- 6 (1) In subsection (1) of section 159 (new assets must be chargeable assets), for the words from “in the case of a person” to the second “in relation to him” substitute “if the relevant asset (or, as the case may be, the property mentioned in section 179(3)(b)) is a chargeable asset in relation to company A at the time of accrual, unless the new assets are chargeable assets in relation to that company”.
- (2) In subsection (2) of that section (subsection (1) not to apply where new assets acquired by UK resident after disposal of old ones)—
- (a) for paragraph (a) substitute—
  - (“) company A acquires the new assets after the time of accrual, and ”;
  - (b) in paragraph (b) for “the person” substitute “that company”.
- (3) In subsection (3) of that section (subsection (2) not to apply in certain cases where new assets acquired by dual resident), for “the person” substitute “company A”.
- (4) In subsection (6) of that section (definitions)—
- (a) in paragraph (a) for “ “the old assets” and “the new assets” have the same meanings” substitute “ “the new assets” has the same meaning”;
  - (b) omit paragraph (b).
- (5) Omit subsection (7) of that section (acquisitions before 14th March 1989).

### **Section 175**

- 7 (1) In subsection (2) of section 175 (single-trade rule for group members not to apply in case of dual resident investing company)—
- (a) for “the consideration for the disposal of the old assets” substitute “the amount of the deemed sale consideration”;
  - (b) for “ “the old assets” and “the new assets” have the same meanings” substitute “ “the new assets” has the same meaning”.
- (2) In subsection (2A) of that section (claim by two group members to be treated as same person for roll-over purposes), for paragraph (a) substitute—
- (“) company A is a member of a group of companies at the time of accrual, ”.
- (3) In subsection (2AA) of that section (conditions for claim under subsection (2A))—
- (a) in paragraph (a) for the words from the beginning to “chargeable assets” substitute “that company A is resident in the United Kingdom at the time of accrual, or the relevant asset (or, as the case may be, the property mentioned in section 179(3)(b)) is a chargeable asset”
  - (b) in paragraph (b) for “the assets” substitute “the new assets (within the meaning of section 152)”.
- (4) Immediately before subsection (2B) of that section (roll-over relief for group member not itself carrying on trade) insert—
- (“) Section 152 or 153 shall apply where—
- (a) company B was not carrying on a trade at the time when it disposed of the relevant asset to company A, but was a member of a group of companies at that time, and

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- (b) immediately before that time the relevant asset was used, and used only, for the purposes of the trade which (in accordance with subsection (1) above) is treated as carried on by the members of the group which carried on a trade, as if company B had been carrying on that trade. "
- (5) In subsection (2B) of that section—
- (a) omit paragraph (a);
- (b) in paragraph (b), for “those purposes” substitute “the purposes of the trade which (in accordance with subsection (1) above) is treated as carried on by the members of the group which carry on a trade”.
- (6) Omit subsection (4) of that section (acquisitions before 20th March 1990).

### **Section 185**

- 8 (1) In subsection (3) of section 185 (no roll-over relief in certain cases where company acquires new assets after becoming non-resident)—
- (a) omit “the company”;
- (b) for paragraph (a) substitute—
- (“ the time of accrual falls before the relevant time; and ”;
- (c) insert “the company” at the beginning of paragraph (b).
- (2) In subsection (5) of that section (definitions), in paragraph (c) for ““the old assets” and “the new assets” have the same meanings” substitute ““the new assets” has the same meaning”.

### **Section 198**

- 9 (1) For subsection (1) of section 198 (replacement of business assets used in connection with oil fields) substitute—
- (“ If at the time of accrual the relevant asset (or, as the case may be, the property mentioned in section 179(3)(b)) was used by company A for the purposes of a ring fence trade carried on by it, section 152 or 153 shall not apply unless the new assets are on acquisition taken into use, and used only, for the purposes of that trade. ”.
- (2) In subsection (3) of that section (new asset conclusively presumed to be depreciating asset), for “in relation to any of the consideration on a material disposal” substitute “in a case falling within subsection (1) above”.
- (3) In subsection (5) of that section (definitions), omit paragraph (a).

### **Schedule 22 to the Finance Act 2000**

- 10 In sub-paragraph (2) of paragraph 67 of Schedule 22 to the Finance Act 2000 (c. 17) (no roll-over relief for tonnage tax assets)—
- (a) after “the disposal”, in the first and third places, insert “or deemed sale”;
- (b) in paragraph (a) after “Asset No.1” insert “or, as the case may be, the deemed sale consideration”.

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