

Status: Point in time view as at 13/10/2011.

Changes to legislation: Finance Act 2011, SCHEDULE 9 is up to date with all changes known to be in force on or before 11 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

SCHEDULE 9

Section 44

VALUE SHIFTING

Amendments of TCGA 1992

- 1 In section 30 of TCGA 1992 (tax-free benefits)—
 - (a) in subsection (1)(a) omit “or a relevant asset”,
 - (b) for subsection (2) substitute—
 - “(2) But, for the purposes of corporation tax, this section does not have effect if the disposal of the asset is a disposal by a company of shares in, or securities of, another company (as to which see section 31).”, and
 - (c) omit subsection (8).
- 2 For sections 31 to 34 of TCGA 1992 (which make provision about disposals by companies of shares in or securities of other companies) substitute—

“31 Disposal of shares or securities by a company

- (1) For the purposes of corporation tax, subsection (2) has effect as respects the disposal by a company (“the disposing company”) of shares in, or securities of, another company if—
 - (a) arrangements have been made whereby the value of those shares or securities, or any relevant asset, is materially reduced,
 - (b) the main purpose, or one of the main purposes, of the arrangements is to obtain a tax advantage, and
 - (c) the arrangements do not consist solely of the making of an exempt distribution.
- (2) Any allowable loss or chargeable gain accruing on the disposal is to be calculated as if the consideration for the disposal were increased by such amount as is just and reasonable having regard to—
 - (a) the arrangements, and
 - (b) any charge to, or relief from, corporation tax that, in the absence of this section, would arise in consequence of the disposal or the arrangements.
- (3) For the purposes of subsection (1)—
 - (a) an asset is a relevant asset if, at the time of the disposal, it is owned by a company which is a member of the same group as the disposing company, and
 - (b) it does not matter whether the tax advantage is obtained for the disposing company or any other person.

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- (4) In relation to a case in which the disposal of the shares or securities precedes their acquisition, the reference in subsection (1)(a) to a reduction is to be read as including a reference to an increase.
- (5) Where, but for arrangements to which subsection (6) applies, a transaction would, by virtue of section 29(2), be treated as a disposal of shares by a company, that transaction is to be treated as if it were, by virtue of section 29(2), a disposal of those shares.
- (6) The arrangements to which this subsection applies are arrangements—
- (a) whereby the value of the shares or securities is materially reduced, and
 - (b) the main purpose, or one of the main purposes, of which is to obtain a tax advantage (whether for the company or any other person).
- (7) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
- “exempt distribution” means a distribution which—
- (a) for the purposes of section 931D of CTA 2009 (exemption from charge to tax: distributions received by companies that are not small), falls within an exempt class by virtue of section 931H of that Act (dividends derived from transactions not designed to reduce tax), or
 - (b) would be within paragraph (a) but for the recipient being a small company (within the meaning of section 931S of that Act) in the accounting period of the recipient in which the distribution was received;
- “group” is to be construed in accordance with section 170;
- “securities” has the same meaning as in section 132;
- “tax advantage” means the avoidance of a liability to corporation tax in respect of chargeable gains.”

3 In section 176 of TCGA 1992 (depreciatory transactions within a group), in subsection (1), for “on or after 31st March 1982” substitute “ within the period of 6 years ending with the disposal ”.

4 In section 179 of TCGA 1992 (company ceasing to be member of group), in subsection (9)(b), after “section 30” insert “ or 31 ”.

Consequential repeals

- 5 The following provisions are repealed—
- (a) in Schedule 20 to FA 1996, paragraph 47(b) and (c),
 - (b) Schedule 9 to FA 1999,
 - (c) in Schedule 29 to FA 2000, paragraph 17,
 - (d) in Schedule 9 to FA 2002, paragraph 5(2) and (3),
 - (e) in Schedule 30 to that Act, paragraph 6,
 - (f) in Schedule 1 to CTA 2009, paragraph 361, and
 - (g) in Schedule 23 to FA 2009, paragraph 8.

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Commencement and transitionals

- 6
- (1) The amendments made by paragraphs 1 to 3 and 5 have effect in relation to disposals of shares or securities by companies made on or after the day on which this Act is passed (“the commencement day”).
 - (2) But nothing in paragraph 1, 2 or 5 prevents section 31A of TCGA 1992 (asset-holding company leaving group), as it had effect immediately before the commencement day, continuing to have effect on or after that day in relation to cases where the section 30 disposal to which that section refers occurred before that day.
 - (3) The amendment made by paragraph 4 has effect in relation to disposals of shares or securities treated under section 179 of TCGA 1992 as taking place on or after the commencement day.
 - (4) In this paragraph “securities” has the same meaning as in section 132 of TCGA 1992.

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