



Income and Corporation Taxes Act 1970 (repealed 6.4.1992)

1970 CHAPTER 10

PART XI

COMPANY TAXATION

CHAPTER I

MAIN PROVISIONS

Groups of companies

Modifications etc. (not altering text)

- C1** See [Development Land Tax Act 1976 \(c. 24\), s. 47\(2\)](#)— s. 272 (with omission of subss. (1)(a) and (2)) and the following sections of Chapter II to have effect in relation to the Development of Land Tax Act 1976. The said Act of 1976 repealed by [Finance Act 1985 \(c. 54\), ss. 93, 98\(6\), Sch. 27 Pt. X](#) with effect from March 19th 1985.
- C2** See Finance Act 1984— for the purposes of ss. 272–281 a trustee savings bank, as defined in s. 54(1) of the [Trustee Savings Banks Act 1981 \(c. 65\)](#), shall be deemed to be a body corporate with effect from November 21st 1982.

272 Groups of companies: definitions.

- (1) [^{F1}Except as otherwise provided, for] the purposes of this and the following sections of this Chapter—
- (a) references to a company, [^{F2}subject to section 280(7) below], apply only to a company, as that expression is limited by subsection (2) below, which is resident in the United Kingdom;

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- [^{F3}(b) subsections (1A) and (1D) below apply to determine whether companies form a group and, where they do, which is the principal company of the group;]
- (d) in applying the definition of “75 per cent. subsidiary” in section [^{F4}838 of the Taxes Act 1988] any share capital of a registered industrial and provident society shall be treated as ordinary share capital; and
- (e) “group” and “subsidiary” shall be construed with any necessary modifications where applied to a company incorporated under the law of a country outside the United Kingdom.
- [^{F5}(1A) Subject to subsections (1B) to (1D) below—
- (a) a company (referred to below in this Chapter as the “principal company of the group”) and all its 75 per cent. subsidiaries form a group and, if any of those subsidiaries have 75 per cent. subsidiaries, the group includes them and their 75 per cent. subsidiaries, and so on, but
- (b) a group does not include any company (other than the principal company of the group) that is not an effective 51 per cent. subsidiary of the principal company of the group.
- (1B) A company cannot be the principal company of a group if it is itself a 75 per cent. subsidiary of another company.
- (1C) Where a company (“the subsidiary”) is a 75 per cent. subsidiary of another company but those companies are prevented from being members of the same group by subsection (1A)(b) above, the subsidiary may, where the requirements of subsection (1A) above are satisfied, itself be the principal company of another group notwithstanding subsection (1B) above unless this subsection enables a further company to be the principal company of a group of which the subsidiary would be a member.
- (1D) A company cannot be a member of more than one group; but where, apart from this subsection, a company would be a member of two or more groups (the principal company of each group being referred to below as the “head of a group”), it is a member only of that group, if any, of which it would be a member under one of the following tests (applying earlier tests in preference to later tests)—
- (a) it is a member of the group it would be a member of if, in applying subsection (1A)(b) above, there were left out of account any amount to which a head of a group is or would be beneficially entitled of any profits available for distribution to equity holders of a head of another group or of any assets of a head of another group available for distribution to its equity holders on a winding-up,
- (b) it is a member of the group the head of which is beneficially entitled to a percentage of profits available for distribution to equity holders of the company that is greater than the percentage of those profits to which any other head of a group is so entitled,
- (c) it is a member of the group the head of which would be beneficially entitled to a percentage of any assets of the company available for distribution to its equity holders on a winding-up that is greater than the percentage of those assets to which any other head of a group would be so entitled,
- (d) it is a member of the group the head of which owns directly or indirectly a percentage of the company’s ordinary share capital that is greater than the percentage of that capital owned directly or indirectly by any other head of a group (interpreting this paragraph as if it were included in section 838(1)(a) of the Taxes Act 1988).

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- (1E) For the purposes referred to in subsection (1) above, a company (“the subsidiary”) is an effective 51 per cent. subsidiary of another company (“the parent”) at any time if and only if—
- (a) the parent is beneficially entitled to more than 50 per cent. of any profits available for distribution to equity holders of the subsidiary; and
 - (b) the parent would be beneficially entitled to more than 50 per cent. of any assets of the subsidiary available for distribution to its equity holders on a winding-up.
- (1F) Schedule 18 to the Taxes Act 1988 (group relief: equity holders and profits or assets available for distribution) shall apply for the purposes of subsections (1D) and (1E) above as if the references to subsection (7), or subsections (7) to (9), of section 413 of that Act were references to subsections (1D) and (1E) above and as if, in paragraph 1(4), the words from “but” to the end [F⁶paragraphs 5(3) and 7(1)(b) were omitted].
- (2) For the purposes referred to in subsection (1) above references to a company apply only to—
- (a) a company within the meaning of the [F⁷Companies Act 1985] or the corresponding enactment in Northern Ireland, and
 - (b) a company which is constituted under any other Act or a Royal Charter or letters patent or (although resident in the United Kingdom) is formed under the law of a country or territory outside the United Kingdom, and
 - (c) a registered industrial and provident society within the meaning of section [F⁸486 of the Taxes Act 1988][F⁹; and
 - (d) a trustee savings bank as defined in section 54(1) of the Trustee Savings Banks Act 1981]; [F¹⁰and
 - (e) a building society within the meaning of the Building Societies Act 1986].
- (3) For the purposes referred to in subsection (1) above a group remains the same group so long as the same company remains the principal company of the group, and if at any time the principal company of a group becomes a [F¹¹member of another group, the first group and the other group shall be regarded as the same], and the question whether or not a company has ceased to be a member of a group shall be determined accordingly.
- (4) For the purposes referred to in subsection (1) above the passing of a resolution or the making of an order, or any other act, for the winding-up of [F¹²a member of a group of companies] shall not be regarded as the occasion of [F¹²that or any other company ceasing to be a member of the group.]
- (5) The following sections of this Chapter, except in so far as they relate to recovery of tax, shall also have effect in relation to bodies from time to time established by or under any enactment for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control as if they were companies within the meaning of those sections, and as if any such bodies charged with related functions (and in particular the Boards and Holding Company established under the M¹Transport Act 1962 and the new authorities within the meaning of the M²Transport Act 1968 established under that Act of 1968) and subsidiaries of any of them formed a group, and as if also any two or more such bodies charged at different times with the same or related functions were members of a group:

Provided that this subsection shall have effect subject to any enactment by virtue of which property, rights, liabilities or activities of one such body fall to be treated for

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corporation tax as those of another, including in particular any such enactment in Chapter [F⁸VI of Part XII of the Taxes Act 1988].

- (6) The following sections of this Chapter, except in so far as they relate to recovery of tax, shall also have effect in relation to [F¹³the London Transport Executive and] the Executive for a designate area within the meaning of section 9(1) of the M³Transport Act 1968 as if [F¹⁴that Executive] were a company within the meaning of those sections.

Textual Amendments

- F1** Words substituted by Finance Act 1990 (c. 29), s. 70(2)(a) in relation to disposals on or after March 20th 1990.
- F2** Words repealed by Finance Act 1990 (c. 29), s. 70(2)(b), Sch. 19 Pt. IV in relation to disposals on or after March 20th 1990.
- F3** S. 272(1)(b) substituted for s. 272(1)(b)(c) by Finance Act 1989 (c. 26), s. 138 on and after March 14th 1989 subject to s. 138(10)(11).
- F4** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 32.
- F5** S. 272(1A)–(1F) inserted by Finance Act 1989 (c. 26), s. 138(2) on and after March 14th 1989 subject to s. 138(10)(11).
- F6** Words substituted by Finance Act 1990 (c. 29), s. 86(1). Principal company of a group can under certain circumstances elect for subs. (1F) not to apply when membership of a group is considered.
- F7** Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9), s. 30, Sch. 2 with effect from July 1st 1985.
- F8** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 32.
- F9** S. 272(2)(d) and word “and” immediately preceding it inserted by Finance Act 1984 (c. 43), s. 44(2)—deemed to have come into force on November 21st 1982.
- F10** S. 272(e) and word “and” immediately preceding it inserted by Finance (No. 2) Act 1987 (c. 51), s. 79.
- F11** Words substituted by Finance Act 1989 (c. 26), s. 138(3). Changes apply from March 14th 1989 subject to s. 138(10)(11).
- F12** Words substituted by Finance Act 1989 (c. 26), s. 138(4). Changes apply on and after March 14th 1989 subject to s. 138(10)(11).
- F13** Words inserted by Finance Act 1970 (c. 24, SIF 63:1, 2), s. 16(4), Sch. 3 para. 8(2) and repealed by London Regional Transport Act 1984 (c. 32), s. 71(3), Sch. 6 para. 7 and Sch. 7 on and after June 29th 1984 by S.I. 1984 No. 877.
- F14** Words substituted by London Regional Transport Act 1984 (c. 32), s. 71(3)(a), Sch. 6 para. 7 on and after June 29th 1984 by S.I. 1984 No. 877.

Modifications etc. (not altering text)

- C3** See Finance Act 1974 (c. 30), s. 41(10), s. 272 applied for purposes of s. 41(8)(9) (development gains: indirect disposals); s. 45(4), Sch. 9 para. 11(3) of the Act of 1974— s. 272 applied for purposes of para. 11 (first letting after material development: groups of companies) and Finance (No. 2) Act 1975 (c. 45), s. 58(10) for application of definition of “group” for purposes of s. 58 (disposal of shares and securities within prescribed period of acquisition after April 14th 1975).
- C4** See Capital Gains Tax Act 1979 (c. 14, SIF 63:2), s. 70(7), for application of definition of “group” for purposes of s. 70 (losses on disposals of gilt-edged securities replaced within prescribed period); Finance Act 1982 (c. 39), s. 89(6), s. 272 applied for purposes of s. 89 (rules for identification of securities) and Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 347(5)— applied for purposes of s. 347 (groups).
- C5** See Finance Act 1988 (c. 39, SIF 63:1, 2), s. 132, for application of definition of “group” applied in a modified form for purposes of s. 132 (unpaid tax); Sch. 12 para. 4 of the Act of 1988 for application of definition of “group” for purposes of Sch. 12 (building societies); Finance Act 1989 (c. 26), s. 134 for application of definition of “group” to non-payment of tax by non-residents and Finance Act 1990

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- (c. 29), **s. 32(10)**— for application of definition of “group” for purposes of ss. 31 and 32 (employee share ownership trusts).
- C6** See Finance Act 1973 (c. 51), **s. 38(5)**, s. 272(1)(a) and (2) not applicable for purposes of ss. 273 to 275 and 278 to 279 in relation to certain disposals of offshore exploration or exploitation rights.
- C7** See Income and Corporation Taxes Act 1970 (c. 10, SIF 63:1), **s. 268A(6)**, postponement of charge on transfer of assets to non-resident company.
- C8** See Finance (No. 2) Act 1975 (c. 45), s. 54, **Sch. 10 para. 16(3)**, definition of “group” applied in relation to relief for increase in value of trading stock and work in progress in base periods mentioned in Sch. 10 para. 2. See also Finance Act 1976 (c. 40), **Sch. 5 para. 29(3)** regarding application of definition of group.
- C9** See Capital Gains Tax Act 1979 (c. 14, SIF 63:2), **ss. 26–26C**— application of definition in relation to value shifting provisions.
- C10** S. 54(1) of the Trustee Savings Banks Act 1981 (c. 65) defines a trustee savings bank as “a bank certified under this Act, the Trustee Savings Banks Act 1969, the Trustee Savings Banks Act 1954 or the Trustee Savings Banks Act 1863”.
- C11** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **s. 513(3)**— successor companies to British Airways Board and National Freight Corporation not to be regarded as within s. 272(5) by reason only of the provisions of s. 513 and Gas Act 1986 (c. 44), **s. 60(2) s. 272(5)** not to apply to successor companies to the British Gas Corporation by virtue of s. 60(1) of that Act.

Marginal Citations

- M1** 1962 c. 46.
M2 1968 c. 73.
M3 1968 c. 73.

273 Transfers within a group.

- (1) Notwithstanding any provision in [^{F15}the Capital Gains Tax Act 1979] fixing the amount of the consideration deemed to be received on a disposal or given on an acquisition, where a member of a group of companies disposes of an asset to another member of the group, both members shall, except as provided by subsections (2) and (3) below, be treated, so far as relates to corporation tax on chargeable gains, as if the asset required by the member to whom the disposal is made were acquired for a consideration of such amount as would secure that on the other’s disposal neither a gain nor a loss would accrue to that other; but where it is assumed for any purpose that a member of a group of companies has sold or acquired an asset, it shall be assumed also that it was not a sale to or acquisition from another member of the group.
- (2) Subsection (1) above shall not apply where the disposal is—
- a disposal of a debt due from a member of a group of companies effected by satisfying the debt or part of it; or
 - a disposal of redeemable shares in a company on the occasion of their redemption; [^{F16}or
 - a disposal by or to an investment trust within the meaning of [^{F17}section 842 of the Taxes Act 1988]; [^{F18}or
 - a disposal to a dual resident investing company, within the meaning of section [^{F17}404 of the Taxes Act 1988]; [^{F19}or
 - a disposal to a company which, though resident in the United Kingdom,—
 - is regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 of the Taxes Act 1988 as resident in a territory outside the United Kingdom, and

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- (ii) by virtue of the arrangements would not be liable in the United Kingdom to tax on a gain arising on a disposal of the asset occurring immediately after its acquisition.]

and the reference in that subsection to a member of a group of companies disposing of an asset shall not apply to anything which under [^{F20}section 72 of the Capital Gains Tax Act 1979] is to be treated as a disposal of an interest in shares in a company in consideration for a capital distribution (as defined in [^{F20}that section]) from that company, whether or not involving a reduction of capital.

- [^{F21}(2A) Subsection (1) above shall not apply to a transaction treated by virtue of sections 78 and 85 of the Capital Gains Tax Act 1979 as not involving a disposal by the company first mentioned in that subsection.]

- (3) For the purposes of subsection (1) above, so far as the consideration for the disposal consists of money or money's worth by way of compensation for any kind of damage or injury to assets, or for the destruction or dissipation of assets or for anything which depreciates or might depreciate an asset, the disposal shall be treated as being to the person who, whether as an insurer or otherwise, ultimately bears the burden of furnishing that consideration.

Textual Amendments

- F15** Words substituted by [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\)](#), s. 157(2), **Sch. 7 para. 8** for 1979-80 et seq.
- F16** [S. 273\(2\)\(c\)](#) and word "or" immediately preceding it inserted by [Finance Act 1980 \(c. 48\)](#), **s. 81(4)** in relation to disposals after March 31st 1980.
- F17** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 32**.
- F18** [S. 273\(2\)\(d\)](#) and word "or" immediately preceding it inserted by [Finance \(No. 2\) Act 1987 \(c. 51\)](#), **s. 64(3)** in relation to disposals on or after April 1st 1987.
- F19** [S. 273\(2\)\(e\)](#) and word "or" immediately preceding it inserted by [Finance Act 1990 \(c. 29\)](#), **s. 65(2)(4)** in relation to disposals on or after March 20th 1990.
- F20** Words substituted by [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\)](#), s. 157(2), **Sch. 7 para. 9** for 1979-80 et seq.
- F21** [S. 273\(2A\)](#) inserted by [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **s. 115** on or after March 15th 1988.

Modifications etc. (not altering text)

- C12** See [Income and Corporation Taxes Act 1970 \(c. 10, SIF 63:1\)](#), **s. 268A(6)** postponement of charge on transfer of assets to non-resident company; [Finance Act 1970 \(c. 24, SIF 63:1, 2\)](#), s. 16(4), **Sch. 3 para. 8(1)** assets transferred from the London Transport Board to the London Transport Executive or [London Country Bus Services Ltd and Finance Act 1973 \(c. 51\)](#), **s. 38(5)** application of ss. 273 to 275 and 278 to 279 in relation to certain disposals by non-resident companies of offshore exploration or exploitation rights.
- C13** See [Finance Act 1974 \(c. 30\)](#), s. 39(5), **Sch. 5 para. 5**, where s. 273 applies to a disposal consideration therefor to be disregarded for purposes of s. 39 of the 1974 Act (development gains; small disposals); [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\)](#), **s. 16**, ss. 273 to 275 and 276(1) to apply in relation to non-resident companies which are members of a non-resident group and s. 26 of the Act of 1979 disposals within this section excluded from s. 43 valuers' schemes.
- C14** See [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\)](#), s. 28, **Sch. 5 para. 4(3)** election under para. 4 (quoted securities held on April 6th 1965) not to cover quoted securities to which s. 273 applies unless company making original disposal makes election covering securities of that kind; [s. 75\(4\)](#) of the Act of 1979 s. 75 (transfers at under-value) not to apply where transfer is a disposal within s. 273 and s. 35(5) of the Act of 1979 apportionment of deductible expenditure on apt disposal declared to operate

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before and without regard to s. 273 and s. 84 of the Act of 1979 treatment of gilt-edged securities exchanged for shares compulsorily acquired after April 6th 1976.

- C15** See Capital Gains Tax Act 1979 (c. 14, SIF 63:2), s. 87(4), recovery of tax assessed to withdraw roll-over relief; s. 107 of the Act of 1979 part disposals of land and Finance Act 1982 (c. 39), s. 86, Sch. 13 para. 3(3), calculation of indexation allowance where initial allowance is within this section.
- C16** See Finance Act 1983 (c. 28), s. 34, Sch. 6 para. 9(1), calculation of indexation allowance where election for pooling made and where disposal is within this section and Finance Act 1988 (c. 39, SIF 63:1, 2), Sch. 11 para. 5, indexation: groups and associated companies.
- C17** See Finance Act 1988 (c. 39, SIF 63:1, 2), Sch. 8 paras. 1, 2 of the capital gains tax rebasing to 1982 and Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 440(3)— ss. 273, 274 not to apply to disposals or acquisitions of life assurance companies.

[^{F22}273A Transfer of United Kingdom branch or agency.

- (1) Subject to subsections (3) and (4) below, subsection (2) below applies for the purposes of corporation tax on chargeable gains where—
- (a) there is a scheme for the transfer by a company (“company A”)—
 - (i) which is not resident in the United Kingdom, but
 - (ii) which carries on a trade in the United Kingdom through a branch or agency,
 of the whole or part of the trade to a company resident in the United Kingdom (“company B”),
 - (b) company A disposes of an asset to company B in accordance with the scheme at a time when the two companies are members of the same group, and
 - (c) a claim in relation to the asset is made by the two companies within two years after the end of the accounting period of company B during which the disposal is made.
- (2) Where this subsection applies—
- (a) company A and company B shall be treated as if the asset were acquired by company B for a consideration of such amount as would secure that neither a gain nor a loss would accrue to company A on the disposal, and
 - (b) section 127(3) of the Finance Act 1989 shall not apply to the asset by reason of the transfer.
- (3) Subsection (2) above does not apply where—
- (a) company B, though resident in the United Kingdom,—
 - (i) is regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 of the Taxes Act 1988 as resident in a territory outside the United Kingdom, and
 - (ii) by virtue of the arrangements would not be liable in the United Kingdom to tax on a gain arising on a disposal of the asset occurring immediately after its acquisition, or
 - (b) company B is—
 - (i) a dual resident investing company, within the meaning of section 404 of the Taxes Act 1988, or
 - (ii) an investment trust, within the meaning of section 842 of that Act.
- (4) Subsection (2) above shall not apply unless any gain accruing to company A—
- (a) on the disposal of the asset in accordance with the scheme, or

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- (b) where that disposal occurs after the transfer has taken place, on a disposal of the asset immediately before the transfer, would be a chargeable gain and would, by virtue of section 11(2)(b) of the Taxes Act 1988, form part of its profits for corporation tax purposes.
- (5) In this section “company” and “group” have the meanings which would be given by section 272 above if subsections (1)(a) and (2) of that section were omitted.]

Textual Amendments

F22 S. 273A inserted by Finance Act 1990 (c. 29), s. 70(1) in relation to disposals on or after March 20th 1990.

274 Transfers within a group: trading stock.

- (1) Where a member of a group of companies acquires an asset as trading stock from another member of the group, and the asset did not form part of the trading stock of any trade carried on by the other member, the member acquiring it shall be treated for purposes of [F23 section 122 of the Capital Gains Tax Act 1979] as having acquired the asset otherwise than as trading stock and immediately appropriated it for the purposes of the trade as trading stock.
- (2) Where a member of a group of companies disposes of an asset to another member of the group, and the asset formed part of the trading stock of a trade carried on by the member disposing of it but is acquired by the other member otherwise than as trading stock of a trade carried on by it, the member disposing of the asset shall be treated for purposes of [F23 section 122 of the Capital Gains Tax Act 1979] as having immediately before the disposal appropriated the asset for some purpose other than the purpose of use as trading stock.

Textual Amendments

F23 Words substituted by Capital Gains Tax Act 1979 (c. 14, SIF 63:2), s. 157(2), Sch. 7 para. 9 for 1979-80 et seq.

Modifications etc. (not altering text)

C18 See Finance Act 1973 (c. 51), s. 38(5), application of ss. 273 to 275 and 278 to 279 in relation to certain disposals by non-resident companies of offshore exploration or exploitation rights; Capital Gains Tax Act 1979 (c. 14, SIF 63:2), s. 16, ss. 273 to 275 and 276(1) to apply in relation to non-resident companies which are members of a non-resident group and Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 440(3), ss. 273, 274 not to apply to disposals or acquisitions of life assurance companies.

275 Disposal or acquisition outside a group.

- [F24(1) Where there is a disposal of an asset acquired in relevant circumstances, section 34 of the Capital Gains Tax Act 1979 (restriction of losses by reference to capital allowances) shall apply in relation to capital allowances made to the person from which it was acquired (so far as not taken into account in relation to a disposal of the asset by that person), and so on as respects previous transfers of the asset in relevant circumstances.

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- (1A) In subsection (1) above “relevant circumstances” means circumstances in which section 273 or 273A above applied or in which section 273 above would have applied but for subsection (2) of that section.
- (1B) Subsection (1) above shall not be taken as affecting the consideration for which an asset is deemed under section 273 or 273A to be acquired.]
- (2) [^{F25}Schedule 5 to the Capital Gains Tax Act 1979] (assets acquired before 6th April 1965) shall apply in relation to a disposal of an asset by a company which is or has been a member of a group of companies, and which acquired the asset from another member of the group at a time when both were members of the group, as if all members of the group for the time being were the same person, and as if the acquisition or provision of the asset by the group, so taken as a single person, had been the acquisition or provision of it by the member disposing of it.
- [^{F26}(3) Subsection (2) above does not apply where the asset was acquired on a disposal within section 273(2)(c) above.]

Textual Amendments

- F24** S. 275(1)–(1B) substituted for s. 275(1) by [Finance Act 1990 \(c. 29\)](#), **s. 70(3)** in relation to disposals on or after March 29th 1990.
- F25** Words substituted by [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\)](#), **s. 157(2)**, **Sch. 7 para. 9** for 1979-80 et seq.
- F26** S. 275(3) inserted by [Finance Act 1980 \(c. 448\)](#), **s. 81(5)** in relation to disposals after March 31st 1980.

Modifications etc. (not altering text)

- C19** See [Finance Act 1973 \(c. 51\)](#), **s. 38(5)** and the application of ss. 273 to 275 and 278 to 279 in relation to certain disposals by non-resident companies of offshore exploration or exploitation rights; [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\)](#), **s. 16**— ss. 273 to 275 and 276(1) to apply in relation to non-resident companies which are members of a non-resident group and [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 440(3)**, ss. 273, 274 not to apply to disposals or acquisitions of life assurance companies.

276 Replacement of business assets by members of a group.

- (1) [^{F27}Subject to subsection (1A) below] for the purposes of [^{F28}sections 115 to 121 of the Capital Gains Tax Act 1979] (replacement of business assets) all the trades carried on by members of a group of companies shall be treated as a single trade (unless it is a case of one member of the group acquiring, or acquiring the interest in, the new assets from another or disposing of, or of the interest in, the old assets to another).
- [^{F29}(1A) Subsection (1) above does not apply where so much of the consideration for the disposal of the old assets as is applied in acquiring the new assets or the interest in them is so applied by a member of the group which is a dual resident investing company [^{F30}or a company which, though resident in the United Kingdom,—
- (a) is regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 of the Taxes Act 1988 as resident in a territory outside the United Kingdom, and
 - (b) by virtue of the arrangements would not be liable in the United Kingdom to tax on a gain arising on a disposal of, or of the interest in, the new assets occurring immediately after the acquisition;

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and in the subsection “the old assets” and “the new assets” have the same meanings as in section 115 of the Capital Gains Tax Act 1979, and “dual resident investing company” has the same meaning as in section 404 of the Taxes Act 1988]].

- (2) [^{F28}Section 117(2) of the Capital Gains Tax Act 1979] (special rules for depreciating assets) shall apply where the company making the claim is a member of a group of companies as if all members of the group for the time being were the same person (and, in accordance with subsection (1) above, as if all trades carried on by members were the same trade) and so that the gain shall accrue to the member of the group holding the asset concerned on the occurrence of the event mentioned in the said [^{F28}section 117(2)].

Textual Amendments

- F27** Words inserted by Finance (No. 2) Act 1987 (c. 51), s. 64(4) where new assets are acquired on or after April 1st 1987.
- F28** Words substituted by Capital Gains Tax Act 1979 (c. 14, SIF 63:2), s. 157(2), Sch. 7 para. 9 for 1979-80 et seq.
- F29** S. 276(1A) inserted by Finance (No. 2) Act 1987 (c. 51), s. 64(4) where new assets are acquired on or after April 1st 1987.
- F30** Words substituted by Finance Act 1990 (c. 29), s. 65(3)(5)(6) in relation to the disposal of, or of the interest in, the old assets or the acquisition of, or of the interest in, the new assets on or after March 20th 1990. Change not to apply where acquisition takes place before March 20th 1990 and disposal within 12 months beginning with date of acquisition or such longer period as the Board may allow.

Modifications etc. (not altering text)

- C20** See Capital Gains Tax Act 1979 (c. 14, SIF 63:2), s. 16, ss. 273 to 275 and 276(1) to apply in relation to non-resident companies which are members of a non-resident group and Finance Act 1984 (c. 43), s. 80(4) of the Oil Taxation Acts and the modifications of the operation of s. 276 in connection with the replacement of business assets used in connection with oil fields.

277 ^{F31}

Textual Amendments

- F31** S. 277 repealed by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 844, Sch. 31.

278 Company ceasing to be member of a group.

- (1) If a company (in this section called the chargeable company) ceases to be a member of a group of companies, this section shall have effect as respects any asset which the chargeable company acquired from another company which was at the time of acquisition a member of that group of companies, but only if the time of acquisition fell—
- (a) on or after 6th April 1965, and
 - (b) within the period of six years ending with the time when the company ceases to be a member of the group;

and references in this section to a company ceasing to be a member of a group of companies do not apply to cases where a company ceases to be a member of a group

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by being wound up or dissolved or in consequence of another member of the group being wound up or dissolved.

(2) Where two or more associated companies cease to be members of the group at the same time, subsection (1) above shall not have effect as respects an acquisition by one from another of those associated companies.

(3) If, when the chargeable company ceases to be a member of the group, the chargeable company, or an associated company also leaving the group, owns, otherwise than as trading stock—

- (a) the asset, or
- (b) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,

(the chargeable company shall be treated for all the purposes of [^{F32}the Capital Gains Tax Act 1979] as if immediately after its acquisition of the asset it had sold, and immediately reacquired, the asset at market value at that time.

(3A)

[^{F33}(3B) Where, apart from subsection (3C) below, a company ceasing to be a member of a group by reason only of the fact that the principal company of the group becomes a member of another group would be treated by virtue of subsection (3) above as selling an asset at any time, subsections (3C) to (3E) below shall apply.

(3C) The company in question shall not be treated as selling the asset at that time; but if—

- (a) within six years of that time the company in question ceases at any time (“the relevant time”) to satisfy the following conditions, and
- (b) at the relevant time, the company in question, or a company in the same group as that company, owns otherwise than as trading stock the asset or property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,

the company in question shall be treated for all the purposes of the Capital Gains Tax Act 1979 as if, immediately after its acquisition of the asset, it had sold and immediately reacquired the asset at the value that, at the time of acquisition, was its market value.

(3D) Those conditions are—

- (a) that the company is a 75 per cent. subsidiary of one or more members of the other group referred to in subsection (3B) above, and
- (b) that the company is an effective 51 per cent subsidiary of one or more of those members.

(3E)

(3F) Where—

- (a) by virtue of this section a company is treated as having sold an asset at any time, and
- (b) if at that time the company had in fact sold the asset at market value at that time, then, by virtue of section 26 of that Act, any allowable loss or chargeable gain accruing on the disposal would have been calculated as if the consideration for the disposal were increased by an amount,

subsections (3) and (3C) above shall have effect as if the market value at that time had been that amount greater.]

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- (4) For the purposes of this section—
- (a) two or more companies are associated companies if, by themselves, they would form a group of companies,
 - (b) a chargeable gain is carried forward from an asset to other property on a replacement of business assets if, by one or more claims under [^{F34}sections 115 to 121 of the Capital Gains Tax Act 1979], the chargeable gain accruing on a disposal of the asset is reduced, and as a result an amount falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of the other property,
 - (c) an asset acquired by the chargeable company shall be treated as the same as an asset owned at a later time by that company or an associated company if the value of the second asset is derived in whole or in part from the first asset, and in particular where the second asset is a freehold, and the first asset was a leasehold and the lessee has acquired the reversion.
- (5) If any of the corporation tax assessed on a company in consequence of this section is not paid within six months from the date when it becomes payable then—
- (a) a company which on the said date, or immediately after the chargeable company ceased to be a member of the group, was the principal company of the group, and
 - (b) a company which owned the asset on the said date, or when the chargeable company ceased to be a member of the group,
- may at any time within two years from the time when the tax became payable, be assessed and charged (in the name of the chargeable company) to all or any part of that tax; and a company paying any amount of tax under this subsection shall be entitled to recover a sum of that amount from the chargeable company.
- [^{F35}(5A) The date referred to in subsection (5) above is whichever is the later of—
- (a) the date when the tax becomes due and payable by the company; and
 - (b) the date when the assessment was made on the chargeable company.]
- (6) Notwithstanding any limitation on the time for making assessments, an assessment to corporation tax chargeable in consequence of this section may be made at any time within six years from the time when the chargeable company ceased to be a member of the group, and where under this section the chargeable company is to be treated as having disposed of, and reacquired, an asset, all such recomputations of liability in respect of other disposals, and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section shall be carried out.
- (7) The provision in subsection (3) above making the assumption that an asset is sold and re-acquired at market value shall, in accordance with paragraph 7(1) of Schedule 14 to the ^{M4}Finance Act 1967, have effect subject to the provisions of section 33 of that Act (current use value of land in Great Britain).
- (8) This section has effect, to the exclusion of the corresponding enactments repealed by this Act, where the chargeable company ceases to be a member of the group in an accounting period ending after 5th April 1970, and not only in respect of tax for such an accounting period but also in respect of tax for accounting periods ending on or before that date.

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Textual Amendments

- F32** Words substituted by [Capital Gains Tax Act 1979](#) (c. 14, SIF 63:2), s. 157(2), **Sch. 7 para. 8** for 1979-80 et seq.
- F33** [S. 278\(3B\)–\(3F\)](#) inserted by [Finance Act 1989](#) (c. 26), s. **138(5)** from March 14th 1989 subject to s. 138(10)(11).
- F34** Words substituted by [Capital Gains Tax Act 1979](#) (c. 14, SIF 63:2), s. 157(2), **Sch. 7 para. 9** for 1979-80 et seq.
- F35** [S. 278\(5A\)](#): see [Finance \(No. 2\) Act 1987](#) (c. 51), s. 95(4), **Sch. 6 para. 4** for changes where the accounting period in which the Chargeable company ceases to be a member of the group ends after a day to be appointed.

Modifications etc. (not altering text)

- C21** See [Finance Act 1973](#) (c. 51), s. **38(5)**, application of ss. 273 to 275 and 278 to 279 in relation to certain disposals by non-resident companies of offshore exploration or exploitation rights.
- C22** See [Finance Act 1973](#) (c. 51), s. **38(5)**— application of ss. 278 to 279 in relation to certain disposals by non-resident companies of offshore exploration or exploitation rights; [Capital Gains Tax Act 1979](#) (c. 14, SIF 63:2), s. **16**, ss. 278 and 279 to apply to non-resident group of companies and [Finance Act 1980](#) (c. 48), s. 117, **Sch. 18 paras. 10, 15**— application of ss. 278, 279 to exempt distributions and chargeable payments.
- C23** See [Finance Act 1982](#) (c. 39), s. **146** non-application of s. 278 as respects severance of a subsidiary company from British National Oil Corporation group on or after April 6th 1982. S. 146 was repealed by the [Oil and Pipelines Act 1985](#) (c. 62), s. 7(4), **Sch. 4 Pt. I** from December 1st 1985; [Finance Act 1982](#) (c. 39), s. **147**, non-application of s. 278 as respects severance of a subsidiary company from British Gas Corporation. S. 147 is being repealed by the [Gas Act 1986](#) (c. 44), **Sch. 9 Pt. II** on and after August 24th 1986— commencement order S.I. 1986 No. 1318, and [Finance Act 1988](#) (c. 39, SIF 63:1, 2), **Sch. 12 para. 4**— change of status of building societies.
- C24** See [Trustee Savings Banks Act 1985](#) (c. 58), s. 5, **Sch. 2 para. 4(2)**, application of s. 278 where a 75 per cent. subsidiary of an existing bank becomes a 75 per cent subsidiary of the bank's successor under the [Trustee Savings Banks Act 1985](#); [Transport Act 1985](#) (c. 67), s. **130(4)**, non-application of s. 278 to the assets of a company on its ceasing to be a 75 per cent. subsidiary (within the meaning of the [Transport Act](#)) of the Executive where the company was owned by a Passenger Transport Executive under the [Transport Act 1985](#), s. 59 and its shares or securities were subsequently transferred to a [Passenger Transport Authority](#), and [Electricity Act 1989](#) (c. 29), s. 90, **Sch. 11 para. 2** of the application of s. 278 to a successor company on privatisation (in force on March 31st 1990 by virtue of S.I. 1990 No. 117 (C. 4)).
- C25** See [Finance Act 1988](#) (c. 39, SIF 63:1, 2), **Sch. 9 paras. 3, 8**, deferred charges on gains before March 31st 1982.
- C26** See [Finance \(No. 2\) Act 1987](#) (c. 51), s. 95(4), **Sch. 6 para. 4(2)**. See [Sch. 6 para. 4\(2\)](#) for wording to be inserted where the accounting period in which the chargeable company ceases to be a member of the group ends after a day to be appointed.
- C27** [S. 278\(3A\)](#): see [Finance \(No. 2\) Act 1987](#) (c. 51), s. 95(4), **Sch. 6 para. 4(2)**. See [Sch. 6 para. 4\(2\)](#) for wording to be inserted where the accounting period in which the chargeable company ceases to be a member of the group ends after a day to be appointed.
- C28** See [Finance Act 1989](#) (c. 26), s. **138(7)**. [S. 278\(3E\)](#) will have effect where the accounting period in which the company referred to in subs. (3B) ceases to be a member of a group ends after the day appointed under [Finance \(No. 2\) Act 1987](#) (c. 51), s. 95(4), **Sch. 6 para. 4** (not earlier than March 31st 1992).
- C29** See [Finance \(No. 2\) Act 1987](#) (c. 51), s. 95(4), **Sch. 6 para. 4** for changes where the accounting period in which the Chargeable company ceases to be a member of the group ends after a day to be appointed.
- C30** See [Finance Act 1974](#) (c. 30), s. 47, **Sch. 10 para. 1**, s. 277 applied in relation to development gains and tax in respect thereof.

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Marginal Citations

M4 1967 c. 54.

[^{F36}278A Exemption from charge under s. 278 in the case of certain mergers.

- (1) Subject to the following provisions of this section, section 278 above shall not apply in a case where—
 - (a) as part of a merger, a company (in this section referred to as “company A”) ceases to be a member of a group of companies (in this section referred to as “the A group”); and
 - (b) it is shown that the merger was carried out for bona fide commercial reasons and that the avoidance of liability to tax was not the main or one of the main purposes of the merger.
- (2) In this section “merger” means an arrangement (which in this section includes a series of arrangements)—
 - (a) whereby one or more companies (in this section referred to as “the acquiring company” or, as the case may be, “the acquiring companies”) none of which is a member of the A group acquires or acquire, otherwise than with a view to their disposal, one or more interests in the whole or part of the business which, before the arrangement took effect, was carried on by company A; and
 - (b) whereby one or more members of the A group acquires or acquire, otherwise than with a view to their disposal, one or more interests in the whole or part of the business or each of the businesses which, before the arrangement took effect, was carried on either by the acquiring company or acquiring companies or by a company at least 90 per cent. of the ordinary share capital of which was then beneficially owned by two or more of the acquiring companies; and
 - (c) in respect of which the conditions in subsection (4) below are fulfilled.
- (3) For the purposes of subsection (2) above, a member of a group of companies shall be treated as carrying on as one business the activities of that group.
- (4) The conditions referred to in subsection (2)(c) above are—
 - (a) that not less than 25 per cent. by value of each of the interests acquired as mentioned in paragraphs (a) and (b) of subsection (2) above consists of a holding of ordinary share capital, and the remainder of the interest, or as the case may be of each of the interests, acquired as mentioned in the said paragraph (b) consists of a holding of share capital (of any description) or debentures or both; and
 - (b) that the value or, as the case may be, the aggregate value of the interest or interests acquired as mentioned in subsection (2)(a) above is substantially the same as the value or, as the case may be, the aggregate value of the interest or interests acquired as mentioned in subsection (2)(b) above; and
 - (c) that the consideration for the acquisition of the interest or interests acquired by the acquiring company or acquiring companies as mentioned in subsection (2) (a) above, disregarding any part of that consideration which is small by comparison with the total, either consists of, or is applied in the acquisition of, or consists partly of and as to the balance is applied in the acquisition of, the interest or interests acquired by members of the A group as mentioned in subsection (2)(b) above;

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and for the purposes of this subsection the value of an interest shall be determined as at the date of its acquisition.

- (5) Notwithstanding the provisions of section 272(1)(a) above, references in this section to a company include references to a company resident outside the United Kingdom.]

Textual Amendments

F36 S. 278A inserted by Finance Act 1970 (c. 24), s. 27.

Modifications etc. (not altering text)

C31 See Finance Act 1973 (c. 51), s. 38(5), application of ss. 278 to 279 in relation to certain disposals by non-resident companies of offshore exploration or exploitation rights.

279 Shares in subsidiary member of a group.

- (1) This section has effect if a company (in this section called “the subsidiary”) ceases to be a member of a group of companies, and on an earlier occasion shares in the subsidiary were disposed of by another company (in this section called “the chargeable company”) which was then a member of that group in the course of an amalgamation or reconstruction in the group, but only if that earlier occasion fell—

- (a) on or after 6th April 1965 [^{F37}but before 20th April 1977], and
- (b) within the period of six years ending with the date on which the subsidiary ceases to be a member of the group;

and references in this section to a company ceasing to be a member of a group of companies do not apply to cases where a company ceases to be a member of a group by being wound up or dissolved or in consequence of another member of the group being wound up or dissolved.

- (2) The chargeable company shall be treated, for all the purposes of [^{F38}the Capital Gains Tax Act 1979], as if immediately before the earlier occasion it had sold, and immediately reacquired, the said shares at market value at that time.
- (3) If, before the subsidiary ceases to be a member of the group, the chargeable company has ceased to exist, or a resolution has been passed, or an order made, for the winding up of the company, or any other act has been done for the like purpose, any corporation tax to which, if the chargeable company had continued in existence, it would have been chargeable in consequence of this section may be assessed and charged (in the name of the chargeable company) on the company which is, at the time when the subsidiary ceases to be a member of the group, the principal company of the group.
- (4) If any of the corporation tax assessed on a company in consequence of this section, or in pursuance of subsection (3) above, is not paid within six months from the date when it becomes payable, then—
- (a) a company which is on the said date, or was on the earlier occasion, the principal company of the group, and
 - (b) any company taking an interest in the subsidiary as part of the amalgamation or reconstruction in the group,

may at any time within two years from the time when the tax became payable, be assessed and charged (in the name of the chargeable company) to all or any part of that tax; and a company paying any amount of tax under this subsection shall be entitled

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to recover a sum of that amount from the chargeable company, or as the case may be from the company assessed under subsection (3) above.

- (5) Notwithstanding any limitation on the time for making assessments, an assessment to corporation tax chargeable in consequence of this section may be made at any time within six years from the time when the subsidiary ceased to be a member of the group and, in relation to any disposal of the property after the earlier occasion, there shall be made all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section.
- (6) For the purposes of this section there is a disposal of shares in the course of an amalgamation or reconstruction in a group of companies if [^{F39}section 85 or section 86 of the Capital Gains Tax Act 1979] (company amalgamations) applies to shares in a company so as to equate them with shares in or debentures of another company, and the companies are members of the same group, or become members of the same group as a result of the amalgamation or reconstruction.
- (7) Where by virtue of [^{F39}section 86 of the Capital Gains Tax Act 1979] shares are to be treated as cancelled and replaced by a new issue, references in this section to a disposal of shares include references to the occasion of their being so treated.
- (8) This section has effect, to the exclusion of the corresponding enactments repealed by this Act, where the subsidiary ceases to be a member of the group in an accounting period of the chargeable company (or, as the case may be, of the company assessable under subsection (3) above) ending after 5th April 1970, and not only in respect of tax for such an accounting period but also in respect of tax for accounting periods ending on or before that date.

Textual Amendments

- F37** Words inserted by [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\)](#), s. 157(2), **Sch. 7 para. 2** for 1979 to 80 et seq.
- F38** Words inserted by [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\)](#), s. 157(2), **Sch. 7 para. 8** for 1979-80 et seq.
- F39** Words substituted by [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\)](#), s. 157(2), **Sch. 7 para. 9** for 1979 to 80 et seq.

Modifications etc. (not altering text)

- C32** See [Finance Act 1973 \(c. 51\)](#), s. **38(5)** application of ss. 278 to 279 in relation to certain disposals by non-resident companies of offshore exploration or exploitation right; [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\)](#), s. **16 ss. 278** and 279 to apply to non-resident group of companies and [Finance Act 1980 \(c. 48\)](#), s. 117, **Sch. 18 paras. 10, 15** application of ss. 278 and 279 to exempt distributions and chargeable payments.
- C33** See [Finance Act 1974 \(c. 30\)](#), s. 47, **Sch. 10 para. 1**, s. 279(4)(5) applied in relation to development gains and tax in respect thereof.

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