



Capital Gains Tax Act 1979

1979 CHAPTER 14

PART IV

SHARES AND SECURITIES

CHAPTER I

GENERAL

64 Interpretation

- (1) In this Act, unless the context otherwise requires—
“gilt-edged securities ” has the meaning given by Schedule 2 to this Act,
“shares ” includes stock,
“class ”, in relation to shares or securities, means a class of shares or securities of any one company.
- (2) For the purposes of this Act shares or debentures comprised in any letter of allotment or similar instrument shall be treated as issued unless the right to the shares or debentures thereby conferred remains provisional until accepted, and there has been no acceptance.

Rules of identification

65 Pooling

- (1) This section has effect subject to—
(a) section 66 below, and
(b) paragraphs 3 and 13(2) of Schedule 5 to this Act,
and this section shall not apply to gilt-edged securities.

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- (2) Any number of securities of the same class held by one person in one capacity shall for the purposes of this Act be regarded as indistinguishable parts of a single asset (in this section referred to as a holding) growing or diminishing on the occasions on which additional securities of the class in question are acquired, or some of the securities of the class in question are disposed of.
- (3) Without prejudice to the generality of subsection (2) above, a disposal of securities in a holding, other than the disposal outright of the entire holding, is a disposal of part of an asset and the provisions of this Act relating to the computation of a gain accruing on a disposal of part of an asset shall apply accordingly.
- (4) Shares, or securities of a company, shall not be treated for the purposes of this section as being of the same class unless they are so treated by the practice of a recognised stock exchange in the United Kingdom or elsewhere or would be so treated if dealt with on such a stock exchange, but shall be treated in accordance with this section notwithstanding that they are identified in some other way by the disposal or by the transfer or delivery giving effect to it.
- (5) This section shall apply separately in relation to any securities held by a person to whom they were issued as an employee of the company or of any other person on terms which restrict his rights to dispose of them, so long as those terms are in force, and, while applying separately to any such securities, shall have effect as if the owner held them in a capacity other than that in which he holds any other securities of the same class.
- (6) Nothing in this section shall be taken as affecting the manner in which the market value of any asset is to be ascertained.
- (7) In this section “securities ” means—
 - (a) shares, or securities of a company, and
 - (b) subject to the exclusion of gilt-edged securities in subsection (1) above, any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

66 Disposal on or before day of acquisition

- (1) The following provisions shall apply where securities of the same kind are acquired or disposed of by the same person on the same day and in the same capacity—
 - (a) all the securities so acquired shall be treated as acquired by a single transaction and all the securities so disposed of shall be treated as disposed of by a single transaction, and
 - (b) all the securities so acquired shall, so far as their quantity does not exceed that of the securities so disposed of, be identified with those securities.
- (2) Where the quantity of the securities so disposed of exceeds the quantity of the securities so acquired, then so far as the excess—
 - (a) is not required by paragraph 2(2), 3(3) or 13(3) of Schedule 5 to this Act to be identified with securities held on or acquired before 6th April 1965, and
 - (b) cannot be treated under section 65 above as diminishing a holding, it shall be treated as diminishing a quantity subsequently acquired, and a quantity so acquired at an earlier date, rather than one so acquired at a later date.

- (3) Shares shall not be treated for the purposes of this section as being of the same kind unless they are treated as being of the same class by the practice of a recognised stock exchange in the United Kingdom or elsewhere or would be so treated if dealt with on such a stock exchange.
- (4) In this section “securities ” includes shares and any assets dealt with without identifying the particular assets disposed of or acquired, and in the case of gilt-edged securities subsection (2) above has effect subject to section 68 below.

Gilt-edged securities

67 Exemption for long-term gains

- (1) A gain which accrues on the disposal by any person of gilt-edged securities shall not be a chargeable gain except where the disposal occurs within 12 months after the acquisition of the securities.
- (2) So much of subsection (1) above as excepts a disposal occurring within 12 months after the acquisition of the securities shall not apply where the person disposing of the securities had acquired them—
 - (a) by devolution on death or as legatee, or
 - (b) if they were settled property, on becoming absolutely entitled thereto as against the trustee.
- (3) Where, in the case of a man and his wife, section 44 above applies in relation to the acquisition of any securities by the one from the other, and the one making the acquisition subsequently disposes of the securities by a disposal to which that section does not apply, he shall be treated for the purposes of the exception in subsection (1) above as if he had acquired the securities when the other did.

68 Identification (general)

- (1) The following provisions shall apply, for the purpose of identifying gilt-edged securities disposed of by any person with securities of the same kind acquired by him in the same capacity.
- (2) Securities disposed of at an earlier date shall be identified before securities disposed of at a later date, and their identification shall have effect also for determining what securities might be comprised in the later disposal.
- (3) Securities disposed of shall be identified with securities acquired within the twelve months preceding the disposal rather than with securities not so acquired, and with securities so acquired at an earlier date rather than with securities so acquired at a later date.
- (4) This section has effect subject to section 66(1) above, and 69 below.

69 Identification: disposal to husband or wife and third person

- (1) Where, in the case of a man and his wife living with him, one of them—
 - (a) disposes of gilt-edged securities of any kind to the other, and
 - (b) disposes of gilt-edged securities of the same kind to a third person,

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then, if under the preceding provisions of this Chapter any of the securities disposed of to the husband or wife would be identified with securities acquired within the twelve months preceding the disposal and any of the securities disposed of to the third person with securities not so acquired, the securities disposed of to the third person shall be identified with securities so acquired before any securities disposed of to the husband or wife are so identified.

- (2) If there is more than one disposal to the wife or husband, or to a third party, the provisions of this section shall be applied to securities disposed of at an earlier date before they are applied to securities disposed of at a later date, and the identification of the securities disposed of at the earlier date shall have effect also for determining what securities might be comprised in the later disposal.

70 Re-acquisition after sale at a loss

- (1) Where a loss accrues to a person on the disposal of gilt-edged securities and he re-acquires the same securities within the prescribed period after the disposal that loss shall not be deductible except from a chargeable gain accruing to him on the disposal of the securities re-acquired.
- (2) Where a person disposes of gilt-edged securities and acquires gilt-edged securities of the same kind within the prescribed period after the disposal he shall be treated for the purposes of subsection (1) above as re-acquiring the securities disposed of (or such quantity of them as does not exceed the quantity acquired) but so that—
- (a) there cannot be in relation to the same disposal more than one re-acquisition of the same security, nor can there be by the same acquisition of a security a re-acquisition in relation to more than one disposal, and
 - (b) if an acquisition could be treated as a re-acquisition of securities disposed of either at an earlier or at a later date it shall be treated as a re-acquisition of the securities disposed of at the earlier date, and
 - (c) if securities disposed of by the same disposal could be treated as re-acquired at an earlier or at a later date they shall be treated as re-acquired at the earlier date.
- (3) Where a person who holds gilt-edged securities (the “original holding”) acquires securities of the same kind (an “additional holding”) and within the prescribed period after the acquisition disposes of securities of that kind, he shall be treated for the purposes of subsection (1) above as if he had within the prescribed period after the disposal re-acquired the securities disposed of or such quantity of them as does not exceed the original holding or the additional holding, whichever is the less.

Paragraphs (a), (b) and (c) of subsection (2) above shall have effect in relation to the acquisition of the additional holding as if it were a re-acquisition of the securities disposed of.

- (4) In the case of a man and his wife living with him—
- (a) the preceding provisions of this section shall, with the necessary modifications, apply also where a loss on the disposal accrues to one of them and the acquisition after the disposal is made by the other,
 - (b) paragraph (a) above shall have effect in relation to subsection (3) above as if the acquisition of the additional holding were an acquisition after the disposal.

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- (5) In the case of companies in the same group subsections (1), (2) and (3) above shall, with the necessary modifications, apply also where a loss on the disposal accrues to one of them and the acquisition is made by the other.
- (6) In this section references to the acquisition of securities shall not include references—
- (a) to acquisition as trading stock, or
 - (b) in the case of a company which is a member of a group, to acquisition from another company which is a member of that group throughout the prescribed period before and after the disposal.
- (7) In this section—
- “group ” has the meaning given in section 272 of the Taxes Act;
 - “the prescribed period ” means—
 - (a) in the case of an acquisition through a stock exchange, one month;
 - (b) in the case of an acquisition otherwise than as aforesaid, six months;
 - “trading stock ”, in relation to a company carrying on life assurance business as defined in section 323 of the Taxes Act, does not include investments held in connection with that business except in so far as they are referable to general annuity business or pension business as defined in that section ;
- and references to a person's holding, acquiring and disposing of securities are references to his doing so in the same capacity.

Savings certificates, etc.

71 Exemption for government non-marketable securities

- (1) Savings certificates and non-marketable securities issued under the National Loans Act 1968 or the National Loans Act 1939, or any corresponding enactment forming part of the law of Northern Ireland, shall not be chargeable assets, and accordingly no chargeable gain shall accrue on their disposal.
- (2) In this section—
- (a) “savings certificates ” means savings certificates issued under section 12 of the National Loans Act 1968, or section 7 of the National Debt Act 1958, or section 59 of the Finance Act 1920, and any war savings certificates as defined in section 9(3) of the National Debt Act 1972, together with any savings certificates issued under any enactment forming part of the law of Northern Ireland and corresponding to the said enactments, and
 - (b) “non-marketable securities” means securities which are not transferable, or which are transferable only with the consent of some Minister of the Crown, or the consent of a department of the Government of Northern Ireland, or only with the consent of the National Debt Commissioners.

Capital distribution in respect of shares, etc.

72 Distribution which is not a new holding within Chapter II

- (1) Where a person receives or becomes entitled to receive in respect of shares in a company any capital distribution from the company (other than a new holding as

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defined in section 77 below) he shall be treated as if he had in consideration of that capital distribution disposed of an interest in the shares.

- (2) If the inspector is satisfied that the amount distributed is small, as compared with the value of the shares in respect of which it is distributed, and so directs—
 - (a) the occasion of the capital distribution shall not be treated for the purposes of this Act as a disposal of the asset, and
 - (b) the amount distributed shall be deducted from any expenditure allowable under this Act as a deduction in computing a gain or loss on the disposal of the shares by the person receiving or becoming entitled to receive the distribution of capital.
- (3) A person who is dissatisfied with the refusal of the inspector to give a direction under this section may appeal to the Commissioners having jurisdiction on an appeal against an assessment to tax in respect of a gain accruing on the disposal.
- (4) Where the allowable expenditure is less than the amount distributed (or is nil)—
 - (a) subsections (2) and (3) above shall not apply, and
 - (b) if the recipient so elects (and there is any allowable expenditure)—
 - (i) the amount distributed shall be reduced by the amount of the allowable expenditure, and
 - (ii) none of that expenditure shall be allowable as a deduction in computing a gain accruing on the occasion of the capital distribution, or on any subsequent occasion. In this subsection “allowable expenditure ” means the expenditure which immediately before the occasion of the capital distribution was attributable to the shares under paragraphs (a) and (b) of section 32(1) above.
- (5) In this section—
 - (a) the “amount distributed ” means the amount or value of the capital distribution,
 - (b) “capital distribution ” means any distribution from a company, including a distribution in the course of dissolving or winding up the company, in money or money's worth except a distribution which in the hands of the recipient constitutes income for the purposes, of income tax.

73 Disposal of right to acquire shares

- (1) Where a person receives or becomes entitled to receive in respect of any shares in a company a provisional allotment of shares in or debentures of the company and he disposes of his rights section 72 above shall apply as if the amount of the consideration for the disposal were a capital distribution received by him from the company in respect of the first-mentioned shares, and as if that person had, instead of disposing of the rights, disposed of an interest in those shares.
- (2) If under Schedule 5 to this Act it is to be assumed that, at a time after the creation of the rights and before their disposal, the said person sold and immediately re-acquired the shares in respect of which the rights were created, the same assumption shall be made as respect the rights.
- (3) This section shall apply in relation to rights obtained in respect of debentures of a company as it applies in relation to rights obtained in respect of shares in a company.

Close companies

74 Disposal of shares: relief in respect of income tax consequent on shortfall in distributions

- (1) If in pursuance of paragraph 5 of Schedule 16 to the Finance Act 1972 (consequences for income tax of apportionment of income etc. of close company) a person is assessed to income tax, then, in the computation under Chapter II of Part II of this Act of the gain accruing on a disposal by him of any shares forming part of his interest in the company to which the relevant apportionment relates, the amount of the income tax paid by him, so far as attributable to those shares, shall be allowable as a deduction.
- (2) Subsection (1) above shall not apply in relation to tax charged in respect of undistributed income which has, before the disposal, been subsequently distributed and is then exempt from tax by virtue of sub-paragraph (6) of the said paragraph 5 or in relation to tax treated as having been paid by virtue of sub-paragraph (2Mb) of that paragraph.
- (3) For the purposes of this section the income assessed to tax shall be the highest part of the individual's income for the year of assessment in question, but so that if the highest part of the said income is taken into account under this section in relation to an assessment to tax the next highest part shall be taken into account in relation to any other relevant assessment, and so on.
- (4) For the purpose of identifying shares forming part of an interest in a company with shares subsequently disposed of which are of the same class, shares bought at an earlier time shall be deemed to have been disposed of before shares bought at a later time.
- (5) The provisions of this section shall be construed as if this section formed part of the said paragraph 5.

75 Shares in close company transferring assets at an undervalue

- (1) If after 6th April 1965 a company which is a close company transfers an asset to any person otherwise than by way of a bargain made at arm's length and for a consideration of an amount or value less than the market value of the asset an amount equal to the difference shall be apportioned among the issued shares of the company, and the holders of those shares shall be treated in accordance with the following provisions of this section.
- (2) For the purposes of the computation under Chapter II of Part II of this Act of a gain accruing on the disposal of any of those shares by the person owning them on the date of transfer an amount equal to the amount so apportioned to that share shall be excluded from the expenditure allowable as a deduction under section 32(1)(a) above from the consideration for the disposal.
- (3) If the person owning any of the said shares at the date of transfer is itself a close company an amount equal to the amount apportioned to the shares so owned under subsection (1) above to that close company shall be apportioned among the issued shares of that close company, and the holders of those shares shall be treated in accordance with subsection (2) above, and so on through any number of close companies.
- (4) This section shall not apply where the transfer of the asset is a disposal to which section 273(1) of the Taxes Act (transfers within a group of companies) applies.

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Share option schemes

76 Consideration for acquisition of shares under share option schemes

Section 19(3) above (assets deemed acquired and disposed of at market value) shall not apply in calculating the consideration for the acquisition of shares in pursuance of a share option scheme as defined in Schedule 12 to the Finance Act 1972.