



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART II

GENERAL PROVISIONS RELATING TO COMPUTATION OF GAINS AND ACQUISITIONS AND DISPOSALS OF ASSETS

CHAPTER III

COMPUTATION OF GAINS: GENERAL PROVISIONS

Miscellaneous provisions

48 Consideration due after time of disposal.

[^{F1}(1)] In the computation of the gain consideration for the disposal shall be brought into account without any discount for postponement of the right to receive any part of it and, in the first instance, without regard to a risk of any part of the consideration being irrecoverable or to the right to receive any part of the consideration being contingent; and if any part of the consideration so brought into account [^{F2}subsequently proves to be irrecoverable, there shall be made, on a claim being made to that effect, such adjustment, whether by way of discharge or repayment of tax or otherwise, as is required in consequence].

[^{F3}(2) Subsection (1) above does not apply in relation to so much of any consideration as consists of rights under a creditor relationship to which a company becomes a party as a result of the disposal.

(3) In the computation of the gain in a case where subsection (2) above has effect in relation to any consideration, the amount to be brought into account in respect of that consideration is the fair value of the creditor relationship.

(4) In this section—

- (a) “creditor relationship”, and

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(b) “fair value”, in relation to a creditor relationship, each have the same meaning as in [^{F4}Part 5 of CTA 2009 (see sections 302(5) and 313(6))].]

Textual Amendments

- F1** S. 48 renumbered as s. 48(1) (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 7(2)**
- F2** Words in s. 48 substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 20 para. 48**
- F3** S. 48(2)-(4) added (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 7(3)**
- F4** Words in s. 48(4) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 364** (with Sch. 2 Pts. 1, 2)

Modifications etc. (not altering text)

- C1** S. 48 applied (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), **ss. 208, 1184(1)** (with Sch. 2)

[^{F5}48A Unascertainable consideration

- (1) This section applies where—
- (a) a person (“P”) has made a non-resident CGT disposal in relation to which there accrued to P an NRCGT gain chargeable to, or an NRCGT loss allowable for the purposes of, capital gains tax by virtue of section 14D or 188D (“the original disposal”),
 - (b) P acquired a right as the whole or part of the consideration for that disposal,
 - (c) on P’s acquisition of the right, there was no corresponding disposal of it, and
 - (d) the right is a right to unascertainable consideration (see subsections (4) to (6)).
- (2) If P subsequently receives consideration (“the ascertained consideration”) representing the whole or part of the consideration referred to in subsection (1)(d) and condition A in section 14B would have been met in relation to the original disposal had a gain on that disposal accrued at the time of the receipt of the ascertained consideration—
- (a) the ascertained consideration is treated as not accruing on the disposal of the right,
 - (b) the costs of P’s acquisition of the right (or, in the case of a part disposal of the right, those costs so far as referable to the part disposed of) are taken to be nil, and
 - (c) the following steps are taken.

Step 1 Any amount by which the ascertained consideration exceeds the relevant original consideration is treated as consideration (or further consideration) accruing on the original disposal. If the relevant original consideration exceeds the ascertained consideration, the consideration accruing on the original disposal is treated as reduced by the amount of the excess.

Step 2 Compute the difference that the adjustment under step 1 makes to what (if any) NRCGT gain or loss, ATED-related gain or loss or other gain or loss accrues on the original disposal (computing this separately for each type of gain or loss). The difference is “positive” if a loss is decreased (to nil or otherwise) or a gain created or increased. The

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difference is “negative” if a gain is reduced (to nil or otherwise) or a loss created or increased.

Step 3 Any positive amount computed under step 2 is treated for the purposes of this Act and the Management Act as a gain (of the type appropriate to the computation) accruing to P at the time of the receipt of the ascertained consideration. Any negative amount computed under step 2 is treated for the purposes of this Act and the Management Act as a loss (of the type appropriate to the computation) accruing to P at the time of the receipt of the ascertained consideration.

- (3) In step 1 in subsection (2), “the relevant original consideration” means the consideration accruing on the original disposal, so far as referable to the right mentioned in subsection (1)(b) (or, in the case of a part disposal of the right, referable to the part disposed of).
- (4) A right is a right to unascertainable consideration if, and only if—
- (a) it is a right to consideration the amount or value of which is unascertainable at the time when the right is conferred, and
 - (b) that amount or value is unascertainable at that time on account of its being referable, in whole or in part, to matters which are uncertain at that time because they have not yet occurred.

This subsection is subject to subsections (5) and (6).

- (5) The amount or value of any consideration is not to be regarded as being unascertainable by reason only—
- (a) that the right to receive the whole or any part of the consideration is postponed or contingent, if the consideration or, as the case may be, that part of it is, in accordance with section 48, brought into account in the computation of the gain accruing to a person on the disposal of an asset, or
 - (b) in a case where the right to receive the whole or any part of the consideration is postponed and is to be, or may be, to any extent satisfied by the receipt of property of one description or property of some other description, that some person has a right to select the property, or the description of property, that is to be received.
- (6) A right is not to be taken to be a right to unascertainable consideration by reason only that either the amount or the value of the consideration has not been fixed, if—
- (a) the amount will be fixed by reference to the value, and the value is ascertainable, or
 - (b) the value will be fixed by reference to the amount, and the amount is ascertainable.]

Textual Amendments

- F5** S. 48A inserted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 7 para. 14](#)

49 Contingent liabilities.

- (1) In the first instance no allowance shall be made in the computation of the gain—

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- (a) in the case of a disposal by way of assigning a lease of land or other property, for any liability remaining with, or assumed by, the person making the disposal by way of assigning the lease which is contingent on a default in respect of liabilities thereby or subsequently assumed by the assignee under the terms and conditions of the lease,
- (b) for any contingent liability of the person making the disposal in respect of any covenant for quiet enjoyment or other obligation assumed as vendor of land, or of any estate or interest in land, or as a lessor,
- (c) for any contingent liability in respect of a warranty or representation made on a disposal by way of sale or lease of any property other than land.

[^{F6}(2) If any such contingent liability subsequently becomes enforceable and is being or has been enforced, there shall be made, on a claim being made to that effect, such adjustment, whether by way of discharge or repayment of tax or otherwise, as is required in consequence.]

(3) Subsection (2) above also applies where the disposal in question was before the commencement of this section.

Textual Amendments

F6 S. 49(2) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 20 para. 49](#)

50 Expenditure reimbursed out of public money.

There shall be excluded from the computation of a gain any expenditure which has been or is to be met directly or indirectly by the Crown or by any Government, public or local authority whether in the United Kingdom or elsewhere.

51 Exemption for winnings and damages etc.

- (1) It is hereby declared that winnings from betting, including pool betting, or lotteries or games with prizes are not chargeable gains, and no chargeable gain or allowable loss shall accrue on the disposal of rights to winnings obtained by participating in any pool betting or lottery or game with prizes.
- (2) It is hereby declared that sums obtained by way of compensation or damages for any wrong or injury suffered by an individual in his person or in his profession or vocation are not chargeable gains.

52 Supplemental.

- (1) No deduction shall be allowable in a computation of the gain more than once from any sum or from more than one sum.
- (2) References in this Chapter to sums taken into account as receipts or as expenditure in computing profits or gains or losses for the purposes of income tax shall include references to sums which would be so taken into account but for the fact that any profits or gains of a trade, profession, employment or vocation are not chargeable to income tax or that losses are not allowable for those purposes.

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- (3) In this Chapter references to income or profits charged or chargeable to tax include references to income or profits taxed or as the case may be taxable by deduction at source.
- (4) For the purposes of any computation of the gain any necessary apportionments shall be made of any consideration or of any expenditure and the method of apportionment adopted shall, subject to the express provisions of this Chapter, be ^{F7}... just and reasonable.
- (5) In this Chapter “capital allowance” and “renewals allowance” have the meanings given by subsections (4) and (5) of section 41.

Textual Amendments

- F7** Words in s. 52(4) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), Sch. 20 para. 50, [Sch. 41 Pt. V\(10\)](#)

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