



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART IV

#### SHARES, SECURITIES, OPTIONS ETC.

### CHAPTER I

#### GENERAL

##### *Share pooling, identification of securities, and indexation*

#### **104 Share pooling: general interpretative provisions.**

- (1) Any number of securities of the same class acquired by the same person in the same capacity shall for the purposes of this Act be regarded as indistinguishable parts of a single asset growing or diminishing on the occasions on which additional securities of the same class are acquired or some of the securities of that class are disposed of.
- (2) Subsection (1) above—
  - (a) does not apply to any securities which were acquired before 6th April 1982 or in the case of a company 1st April 1982;
  - [<sup>F1</sup>(aa) does not apply, except for the purposes of corporation tax, to any securities acquired on or after 6th April 1998;] and
  - (b) has effect subject to sections 105, 106 and 107.
- [<sup>F2</sup>(2A) Subsection (2)(aa) above shall not prevent the application of subsection (1) above to any securities that would be treated as acquired on or after 6th April 1998 but for their falling by virtue of section 127 to be treated as the same as securities acquired before that date.]
- (3) For the purposes of this section and sections 105, 107, 110[<sup>F3</sup>, 110A] and 114—
  - [<sup>F4</sup>“a section 104 holding” is] a holding of securities which, by virtue of subsection (1) above, is to be regarded as a single asset;

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“securities” does not include relevant securities as defined in section 108 but, subject to that, means—

- (i) shares or securities of a company; and
  - (ii) any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired; and
- “relevant allowable expenditure” has the meaning assigned to it by section 53(2)(b) and (3);

but shares or securities of a company shall not be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on a recognised stock exchange.

- [<sup>F5</sup>(4) For the purposes of this Chapter securities of a company which are held—
- (a) by a person who acquired them as an employee of the company or of any other person, and
  - (b) on terms which for the time being restrict his right to dispose of them,
- shall (notwithstanding that they would otherwise fall to be treated as of the same class) be treated as of a different class from any securities acquired by him otherwise than as an employee of the company or of any other person and also from any shares that are not held subject to restrictions, or the same restrictions, on disposal or in the case of which the restrictions are no longer in force.]
- (5) Nothing in this section or sections 110[<sup>F6</sup>, 110A] and 114 shall be taken as affecting the manner in which the market value of any securities is to be ascertained.
- (6) Without prejudice to the generality of subsections (1) and (2) above, a disposal of securities in a [<sup>F7</sup>section 104 holding], other than a disposal of the whole of it, 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.

#### Textual Amendments

- F1** S. 104(2)(aa) inserted (with effect in accordance with s. 123(6) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 123\(1\)](#)
- F2** S. 104(2A) inserted (with effect in accordance with s. 123(6) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 123\(2\)](#)
- F3** Word in s. 104(3) inserted (with effect in accordance with s. 125(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 125\(3\)](#)
- F4** Words in s. 104(3) substituted (with effect in accordance with s. 123(6) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 123\(3\)](#)
- F5** S. 104(4) substituted (with effect in accordance with s. 123(6) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 123\(4\)](#)
- F6** Word in s. 104(5) inserted (with effect in accordance with s. 125(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 125\(3\)](#)
- F7** Words in s. 104(6) substituted (with effect in accordance with s. 123(6) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 123\(5\)\(b\)](#)

#### Modifications etc. (not altering text)

- C1** S. 104 applied (with modifications) by [S.I. 1989/469, reg. 27\(2\)](#) (as inserted by [S.I. 1996/846, reg. 11\(b\)](#))
- C2** Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\), reg. 27\(2\)](#) (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869, regs. 1\(1\), 12\)](#)

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- C3 Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), regs. 1, [34\(2\)](#)
- C4 Ss. 104-106 excluded (with effect in accordance with s. 63(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 15 para. 93\(6\)](#)
- C5 S. 104(1) restricted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 124\(8\)\(c\)](#)

## 105 Disposal on or before day of acquisition of shares and other unidentified assets.

- (1) [<sup>F8</sup>Paragraphs (a) and (b) below] shall apply where securities of the same class 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.

[<sup>F9</sup>(2) Where the quantity of securities disposed of by any person exceeds the aggregate quantity of—

- (a) the securities (if any) which are required by subsection (1) above to be identified with securities acquired on the day of the disposal,
- (b) the securities (if any) which are required by any of the provisions of section 106 or 106A(5) to be identified with securities acquired after the day of the disposal, and
- (c) the securities (if any) which are required by any of the provisions of sections 104, 106, 106A or 107, or of Schedule 2, to be identified with securities acquired before the day of the disposal,

the disposal shall be treated as diminishing a quantity of securities subsequently acquired, and as so diminishing any quantity so acquired at an earlier date, rather than one so acquired at a later date.]

### Textual Amendments

- F8 Words in s. 105(1) substituted (with effect in accordance with s. 124(7) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 124\(2\)](#)
- F9 S. 105(2) substituted (with effect in accordance with s. 124(7) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 124\(2\)](#)

### Modifications etc. (not altering text)

- C2 Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\)](#), [reg. 27\(2\)](#) (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869](#), [regs. 1\(1\), 12\)](#)
- C3 Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), regs. 1, [34\(2\)](#)
- C4 Ss. 104-106 excluded (with effect in accordance with s. 63(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 15 para. 93\(6\)](#)

## [<sup>F10</sup>105A Shares acquired on same day: election for alternative treatment

- (1) Subsection (2) below applies where an individual—

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- (a) acquires shares (“the relevant shares”) of the same class, on the same day and in the same capacity, and
  - (b) some of the relevant shares (“the approved-scheme shares”) are shares acquired by him as a result of—
    - (i) the exercise of a qualifying option within the meaning of paragraph 1(1) of Schedule 14 to the Finance Act 2000 (enterprise management incentives) in circumstances where paragraph 44, 45 or 46 of that Schedule (exercise of option to acquire shares) applies, or
    - (ii) the exercise of an option to which subsection (1) of section 185 of the Taxes Act (approved share option schemes) applies in circumstances where paragraphs (a) and (b) of subsection (3) of that section apply.
- (2) Where the individual first makes a disposal of any of the relevant shares, he may elect for subsections (3) to (5) below to have effect in relation to that disposal and all subsequent disposals of any of those shares.
- (3) In circumstances where section 105 applies, that section shall have effect as if—
- (a) paragraph (a) of subsection (1) of that section required the approved-scheme shares to be treated as acquired by the individual by a single transaction separate from the remainder of the relevant shares (which shall also be treated by virtue of that paragraph as acquired by the individual by a single transaction), and
  - (b) subsection (1) of that section required the approved-scheme shares to be treated as disposed of after the remainder of the relevant shares.
- (4) If the relevant shares include shares to which relief under Chapter 3 of Part 7 of the Taxes Act or deferral relief (within the meaning of Schedule 5B to this Act) is attributable—
- (a) paragraph 4(4) of that Schedule has effect as if it required the approved-scheme shares falling within paragraph (a), (b), (c) or (d) of that provision to be treated as disposed of after the remainder of the relevant shares falling within the paragraph in question, and
  - (b) section 299 of the Taxes Act has effect for the purposes of section 150A(4) below as if it required—
    - (i) the approved-scheme shares falling within paragraph (a), (b), (c) or (d) of subsection (6A) of section 299 of that Act to be treated as disposed of after the remainder of the relevant shares falling within the paragraph in question, and
    - (ii) the approved-scheme shares to which subsection (6B) of that section applies to be treated as disposed of after the remainder of the relevant shares to which that subsection applies.
- (5) Where section 127 applies in relation to any of the relevant shares (“the reorganisation shares”), that section shall apply separately to such of those shares as are approved-scheme shares and to the remainder of the reorganisation shares (so that those approved-scheme shares and the remainder of the reorganisation shares are treated as comprised in separate holdings of original shares and identified with separate new holdings).
- (6) In subsection (5)—
- (a) the reference to section 127 includes a reference to that section as it is applied by virtue of any enactment relating to chargeable gains, and

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- (b) “original shares” and “new holding” have the same meaning as in section 127 or (as the case may be) that section as applied by virtue of the enactment in question.
- (7) For the purposes of subsection (1) above—
- (a) any shares to which relief under Chapter 3 of Part 7 of the Taxes Act is attributable and which were transferred to an individual as mentioned in section 304 of that Act, and
- (b) any shares to which deferral relief (within the meaning of Schedule 5B to this Act), but not relief under that Chapter, is attributable and which were acquired by an individual on a disposal to which section 58 above applies,
- shall be treated as acquired by the individual on the day on which they were issued.
- (8) In this section the references to Chapter 3 of Part 7, section 299 and section 304 of the Taxes Act shall be read as references to those provisions as they apply to shares issued after 31st December 1993 (enterprise investment scheme).

#### Textual Amendments

**F10** Ss. 105A, 105B inserted (with effect in accordance with s. 50(2)-(4) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 50\(1\)](#)

### 105B Provision supplementary to section 105A

- (1) The provisions of section 105A have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—
- (a) by the disposal, or
- (b) by a transfer or delivery giving effect to it.
- (2) An election must be made, by a notice given to an officer of the Board, on or before the first anniversary of the 31st January next following the year of assessment in which the individual first makes a disposal of any of the relevant shares.
- (3) Where—
- (a) an election is made in respect of the relevant shares, and
- (b) any shares (“the other shares”) acquired by the individual on the same day and in the same capacity as the relevant shares cease to be treated under section 104(4) as shares of a different class from the relevant shares,
- the election shall have effect in respect of the other shares from the time they cease to be so treated.
- (4) In determining for the purposes of section 105A(2) and subsection (2) above whether the individual has made a disposal of any of the relevant shares, sections 122(1) and 128(3) shall be disregarded.
- (5) No election may be made in respect of ordinary shares in a venture capital trust.
- For this purpose “ordinary shares” has the meaning given in section 151A(7).
- (6) For the purposes of section 105A, shares in a company shall not be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange, or would be so treated if dealt with on that recognised stock exchange.

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(7) In section 105A(2) to (5) and subsections (2) to (4) above, any reference to the relevant shares or to the approved-scheme shares includes a reference to the securities (if any) directly or indirectly derived from the shares in question by virtue of one or more applications of section 127 (including that section as applied by virtue of any enactment relating to chargeable gains).

(8) In this section—

“the approved-scheme shares” has the same meaning as in section 105A;

“election” means an election under that section;

“the relevant shares” has the same meaning as in that section; and

“securities” has the meaning given in section 104(3);

and in subsection (4) the reference to section 128(3) includes a reference to that provision as it is applied by virtue of any enactment relating to chargeable gains.]

#### Textual Amendments

**F10** Ss. 105A, 105B inserted (with effect in accordance with s. 50(2)-(4) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 50\(1\)](#)

### 106 Disposal of shares and securities by company within prescribed period of acquisition.

(1) For the purposes of corporation tax on chargeable gains, shares disposed of by a company shall be identified in accordance with the following provisions where—

- (a) the number of shares of that class held by the company at any time during the prescribed period before the disposal amounted to not less than 2 per cent. of the number of issued shares of that class; and
- (b) shares of that class have been or are acquired by the company within the prescribed period before or after the disposal.

[<sup>F11</sup>(2) Subsections (2A) to (2C) below apply where the company making the disposal is a member of a group.

(2A) Where—

- (a) shares of the class in question are held by another member of the group, and
- (b) at any time during the prescribed period before the disposal, the condition in subsection (2D) below is met,

those shares shall be treated for the purposes of paragraph (a) of subsection (1) above as held by the company making the disposal.

(2B) Where—

- (a) shares of the class in question are acquired by another member of the group, and
- (b) at the time of the acquisition, the condition in subsection (2D) below is met,

those shares shall be treated for the purposes of paragraph (b) of subsection (1) above as acquired by the company making the disposal.

(2C) Where—

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- (a) shares of the class in question are acquired by the company making the disposal from another company which was a member of the group throughout the prescribed period before and after the disposal, and
  - (b) throughout the part of the prescribed period before or after the disposal for which the other member of the group held the shares, the condition in subsection (2D) below is met,
- those shares shall be disregarded for the purposes of paragraph (b) of subsection (1) above.
- (2D) The condition referred to in subsections (2A) to (2C) above is—
- (a) that the other member of the group is resident in the United Kingdom, or
  - (b) that the shares are chargeable shares in relation to that other member.]
- (3) References in subsection (1) above to a company's disposing, holding and acquiring shares are references to its doing so in the same capacity; and references in that subsection to the holding or acquisition of shares do not include references to the holding or acquisition of shares as trading stock.
- (4) The shares disposed of shall be identified—
- (a) with shares acquired as mentioned in subsection (1)(b) above (“available shares”) rather than other shares; and
  - (b) with available shares acquired by the company making the disposal rather than other available shares.
- (5) The shares disposed of shall be identified with available shares acquired before the disposal rather than available shares acquired after the disposal and—
- (a) in the case of available shares acquired before the disposal, with those acquired later rather than those acquired earlier;
  - (b) in the case of available shares acquired after the disposal, with those acquired earlier rather than those acquired later.
- (6) Where available shares could be identified—
- (a) with shares disposed of either by the company that acquired them or by another company; or
  - (b) with shares disposed of either at an earlier date or at a later date,
- they shall in each case be identified with the former rather than the latter; and the identification of any available shares with shares disposed of by a company on any occasion shall preclude their identification with shares comprised in a later disposal by that company or in a disposal by another company.
- (7) Where a company disposes of shares which have been identified with shares disposed of by another company, the shares disposed of by the first-mentioned company shall be identified with the shares that would, apart from this section, have been comprised in the disposal by the other company or, if those shares have themselves been identified with shares disposed of by a third company, with the shares that would, apart from this section, have been comprised in the disposal by the third company and so on.
- (8) Where shares disposed of by one company are identified with shares acquired by another, the sums allowable to the company making the disposal under section 38 shall be—
- (a) the sums allowable under subsection (1)(c) of that section; and

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- (b) the sums that would have been allowable under subsection (1)(a) and (b) of that section to the company that acquired the shares if they have been disposed of by that company.
- (9) This section shall have effect subject to section 105(1).
- (10) In this section—
- “group” has the meaning given in section 170(2) to (14);
  - “the prescribed period” means—
    - (a) in the case of a disposal through a stock exchange or Automated Real-Time Investments Exchange Limited, one month;
    - (b) in any other case, 6 months
- [<sup>F12</sup>and for the purposes of this section shares are “chargeable shares” in relation to a company at any time if, were the shares to be disposed of by the company at that time, any gain accruing to the company would be a chargeable gain and would by virtue of section [<sup>F13</sup>10B] form part of its chargeable profits for corporation tax purposes.]
- (11) Shares shall not be treated for the purpose of this section as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.
- (12) This section applies to securities as defined in section 132 as it applies to shares.

#### Textual Amendments

- F11** S. 106(2)-(2D) substituted for s. 106(2) (with effect in accordance with Sch. 29 para. 18(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 18\(2\)](#) (with [Sch. 29 para. 46\(5\)](#))
- F12** Words in s. 106(10) inserted (with effect in accordance with Sch. 29 para. 18(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 18\(3\)](#) (with [Sch. 29 para. 46\(5\)](#))
- F13** Word in s. 106(10) substituted (with effect in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 2\(3\)](#)

#### Modifications etc. (not altering text)

- C2** Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\)](#), [reg. 27\(2\)](#) (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869](#), [regs. 1\(1\), 12](#))
- C3** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), [regs. 1, 34\(2\)](#)
- C4** Ss. 104-106 excluded (with effect in accordance with s. 63(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 15 para. 93\(6\)](#)

#### [<sup>F14</sup>106A] Identification of securities: general rules for capital gains tax.

- (1) This section has effect for the purposes of capital gains tax (but not corporation tax) where any securities are disposed of by any person.
- (2) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the person making the disposal.
- (3) The provisions of this section have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—



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- (a) by the disposal, or
  - (b) by a transfer or delivery giving effect to it;
- but where a person disposes of securities in one capacity, they shall not be identified under those provisions with any securities which he holds, or can dispose of, only in some other capacity.
- (4) Securities disposed of on an earlier date shall be identified before securities disposed of on a later date; and, accordingly, securities disposed of by a later disposal shall not be identified with securities already identified as disposed of by an earlier disposal.
- (5) Subject to subsection (4) above, if within the period of thirty days after the disposal the person making it acquires securities of the same class, the securities disposed of shall be identified—
- (a) with securities acquired by him within that period, rather than with other securities; and
  - (b) with securities acquired at an earlier time within that period, rather than with securities acquired at a later time within that period.
- (6) Subject to subsections (4) and (5) above, securities disposed of shall be identified with securities acquired at a later time, rather than with securities acquired at an earlier time.
- (7) Subsection (6) above shall not require securities to be identified with particular securities comprised in a section 104 holding or a 1982 holding.
- (8) Accordingly, that subsection shall have effect for determining whether, and to what extent, any securities should be identified with the whole or any part of a section 104 holding or a 1982 holding—
- (a) as if the time of the acquisition of a section 104 holding were the time when it first came into being; and
  - (b) as if 31st March 1982 were the time of the acquisition of a 1982 holding.
- (9) The identification rules set out in the preceding provisions of this section have effect subject to subsection (1) of section 105, and securities disposed of shall not be identified with securities acquired after the disposal except in accordance with that section or subsection (5) above.
- (10) In this section—
- “1982 holding” has the same meaning as in section 109;
  - “securities” means any securities within the meaning of section 104 or any relevant securities within the meaning of section 108.
- (11) For the purposes of this section securities of a company shall not be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange, or would be so treated if dealt with on that recognised stock exchange.]

#### Textual Amendments

- F14** S. 106A inserted (with effect in accordance with s. 124(7) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 124\(1\)](#) (with s. 124(8))

#### Modifications etc. (not altering text)

- C2** Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\), reg. 27\(2\)](#) (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869, regs. 1\(1\), 12\)](#)

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- C3** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), regs. 1, **34(2)**
- C6** S. 106A modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\)](#), reg. **27(3)** (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869](#), regs. **1(1), 12**)
- C7** S. 106A modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), regs. 1, **34(3)**

## 107 Identification of securities etc: general rules.

<sup>F15</sup>(1) This section has effect for the purposes of corporation tax where any securities are disposed of by a company.

(1A) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the company making the disposal and could be comprised in that disposal.

(2) The provisions of this section have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—

- (a) by the disposal, or
- (b) by a transfer or delivery giving effect to it;

but where a company disposes of securities in one capacity, they shall not be identified with securities which it holds, or can dispose of, only in some other capacity.]

(3) Without prejudice to section 105 if, within a period of 10 days, a number of securities are acquired and subsequently a number of securities are disposed of and, apart from this subsection—

- (a) the securities acquired would increase the size of, or constitute a <sup>F16</sup>section 104 holding], and
- (b) the securities disposed of would decrease the size of, or extinguish, the same <sup>F16</sup>section 104 holding],

then, subject to subsections (4) and (5) below, the securities disposed of shall be identified with the securities acquired and none of them shall be regarded as forming part of an existing <sup>F16</sup>section 104 holding] or constituting a <sup>F16</sup>section 104 holding].

(4) If, in a case falling within subsection (3) above, the number of securities acquired exceeds the number disposed of—

- (a) the excess shall be regarded as forming part of an existing <sup>F16</sup>section 104 holding] or, as the case may be, as constituting a <sup>F16</sup>section 104 holding]; and
- (b) if the securities acquired were acquired at different times (within the 10 days referred to in subsection (3) above) the securities disposed of shall be identified with securities acquired at an earlier time rather than with securities acquired at a later time.

(5) If, in a case falling within subsection (3) above, the number of securities disposed of exceeds the number acquired, the excess shall not be identified in accordance with that subsection.

(6) Securities which, by virtue of subsection (3) above, do not form part of or constitute a <sup>F16</sup>section 104 holding] shall be treated for the purposes of section 54(2) as relevant securities within the meaning of section 108.

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- (7) The identification rules set out in subsections (8) and (9) below have effect subject to section 105 but, subject to that, have priority according to the order in which they are so set out.
- (8) Securities disposed of shall be identified with securities forming part of a <sup>[F16]</sup>section 104 holding] rather than with other securities.
- (9) Securities disposed of shall be identified with securities forming part of a 1982 holding, within the meaning of section 109, rather than with other securities and, subject to that, shall be identified with securities acquired at a later time rather than with securities acquired at an earlier time.

#### Textual Amendments

- F15** S. 107(1)(1A)(2) substituted for s. 107(1)(2) (with effect in accordance with s. 124(7) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 124\(3\)](#)
- F16** Words in s. 107 substituted (with effect in accordance with s. 123(6) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 123\(5\)\(b\)](#)

#### Modifications etc. (not altering text)

- C2** Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\), reg. 27\(2\)](#) (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by S.I. 1998/1869, [regs. 1\(1\), 12](#))
- C3** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\), regs. 1, 34\(2\)](#)
- C8** S. 107 modified by S.I. 1989/469, [reg. 27A\(2A\)](#) (as inserted (6.4.1996) by S.I. 1996/846, [reg. 11\(b\)](#))
- C9** S. 107 excluded (with effect in accordance with s. 63(4) of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 15 para. 93\(6\)](#)

## 108 Identification of relevant securities.

<sup>[F17]</sup>(A1) This section has effect for the purposes of corporation tax where any relevant securities are disposed of by a company.]

- (1) In this section “relevant securities” means—
  - (a) securities, within the meaning of section 710 of the Taxes Act;
  - <sup>[F18]</sup>(aa) qualifying corporate bonds;]
  - <sup>F19</sup>(b) ..... ; and
  - (c) securities which are, or have at any time been, material interests in a non-qualifying offshore fund, within the meaning of Chapter V of Part XVII of that Act;

and 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 or would be so treated if dealt with on a recognised stock exchange.

- (2) Where a <sup>[F20]</sup>company] disposes of relevant securities, the securities disposed of shall be identified in accordance with the rules contained in this section with the securities of the same class acquired by <sup>[F21]</sup>the company] which could be comprised in that disposal, and shall be so identified notwithstanding that they are otherwise identified by the disposal or by a transfer or delivery giving effect to it (but so that where a <sup>[F20]</sup>company]

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- disposes of securities in one capacity, they shall not be identified with securities which [<sup>F21</sup>it] holds or can dispose of only in some other capacity).
- (3) Relevant securities disposed of on an earlier date shall be identified before securities disposed of on a later date, and the identification of the securities first disposed of shall accordingly determine the securities which could be comprised in the later disposal.
  - (4) Relevant securities disposed of for transfer or delivery on a particular date or in a particular period—
    - (a) shall not be identified with securities acquired for transfer or delivery on a later date or in a later period; and
    - (b) shall be identified with securities acquired for transfer or delivery on or before that date or in or before that period, but on or after the date of the disposal, rather than with securities not so acquired.
  - (5) The relevant securities disposed of shall be identified—
    - (a) with securities acquired within the 12 months preceding the disposal rather than with securities not so acquired, and with securities so acquired on an earlier date rather than with securities so acquired on a later date, and
    - (b) subject to paragraph (a) above, with securities acquired on a later date rather than with securities acquired on an earlier date; and
    - (c) with securities acquired at different times on any one day in as nearly as may be equal proportions.
  - (6) The rules contained in the preceding subsections shall have priority according to the order in which they are so contained.
  - (7) Notwithstanding anything in subsections (3) to (5) above, where, under arrangements designed to postpone the transfer or delivery of relevant securities disposed of, a [<sup>F22</sup>company] by a single bargain acquires securities for transfer or delivery on a particular date or in a particular period and disposes of them for transfer or delivery on a later date or in a later period, then—
    - (a) the securities disposed of by that bargain shall be identified with the securities thereby acquired; and
    - (b) securities previously disposed of which, but for the operation of paragraph (a) above in relation to acquisitions for transfer or delivery on the earlier date or in the earlier period, would have been identified with the securities acquired by that bargain—
      - (i) shall, subject to subsection (3) above, be identified with any available securities acquired for such transfer or delivery (that is to say, any securities so acquired other than securities to which paragraph (a) above applies and other than securities with which securities disposed of for such transfer or delivery would be identified apart from this subsection); and
      - (ii) in so far as they cannot be so identified shall be treated as disposed of for transfer or delivery on the later date, or in the later period, mentioned above.
  - (8) This section shall have effect subject to section 106 but shall not apply—
    - (a) where the disposal is of quoted securities (within the meaning of paragraph 8 of Schedule 2), unless an election has been made with respect to the securities under paragraph 4 of that Schedule or under section 109(4), or

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- (b) where the disposal is of securities as respects which paragraph 17 or 18 of Schedule 2 has effect.

#### Textual Amendments

- F17** S. 108(A1) inserted (with effect in accordance with s. 124(7) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 124\(4\)](#)
- F18** S. 108(1)(aa) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 59](#) (with [Sch. 15](#))
- F19** S. 108(1)(b) repealed (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. V\(3\)](#) (with [Sch. 15](#))
- F20** Word in s. 108(2) substituted (with effect in accordance with s. 124(7) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 124\(5\)\(a\)](#)
- F21** Words in s. 108(2) substituted (with effect in accordance with s. 124(7) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 124\(5\)\(b\)](#)
- F22** Word in s. 108(7) substituted (with effect in accordance with s. 124(7) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 124\(5\)\(a\)](#)

#### Modifications etc. (not altering text)

- C2** Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\)](#), [reg. 27\(2\)](#) (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869](#), [regs. 1\(1\), 12](#))
- C3** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), [regs. 1, 34\(2\)](#)

### 109 Pre-April 1982 share pools.

- (1) This section has effect in relation to any 1982 holding, and in this section “1982 holding” means a holding which, immediately before the coming into force of this section, was a 1982 holding for the purposes of Part II of Schedule 19 to the <sup>MI</sup>Finance Act 1985.
- (2) Subject to subsections (3) to (5) below—
- (a) the holding shall continue to be regarded as a single asset for the purposes of this Act, but one which cannot grow by the acquisition of additional securities of the same class, and
- (b) every sum, which on a disposal of the holding, would be an item of relevant allowable expenditure shall be regarded for the purposes of section 54 as having been incurred at such a time that the month which determines RI in the formula in subsection (1) of that section is March 1982.

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 or would be so treated if dealt with on a recognised stock exchange.

- (3) Nothing in subsection (2) above affects the operation of section 127 in relation to the holding, but without prejudice to section 131.
- (4) If a person so elects, quoted securities, as defined in paragraph 8 of Schedule 2 which are covered by the election—
- (a) shall be treated as an accretion to an existing 1982 holding or, as the case may be, as constituting a new 1982 holding; and

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- (b) shall be excluded from paragraph 2 of that Schedule;  
and the relevant allowable expenditure which is attributable to that 1982 holding shall be adjusted or determined accordingly.
- (5) Paragraphs 4(8) to (13) and 5 to 8 of Schedule 2 shall apply in relation to an election under subsection (4) above as they apply in relation to an election under paragraph 4(2) of that Schedule, but with the substitution for any reference to 19th March 1968 of a reference to 31st March 1985 in the case of holdings or disposals by companies and 5th April 1985 in any other case.
- (6) For the purpose of computing the indexation allowance (if any) on a disposal of a 1982 holding, the relevant allowable expenditure attributable to the holding on the coming into force of this section shall be the amount which, if the holding had been disposed of immediately before the coming into force of this section, would have been the relevant allowable expenditure in relation to that holding on that disposal, and for the purposes of section 54(4) relevant allowable expenditure attributable to a 1982 holding shall be deemed to be expenditure falling within section 38(1)(a).

#### Modifications etc. (not altering text)

- C2** Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\)](#), [reg. 27\(2\)](#) (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869](#), [regs. 1\(1\), 12](#))
- C3** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), [regs. 1, 34\(2\)](#)

#### Marginal Citations

- M1** 1985 c. 54.

## 110 New holdings: indexation allowance.

- (1) <sup>F23</sup>For the purposes of corporation tax this] section and section 114—
- (a) apply in place of section 54 in relation to a disposal of a <sup>F24</sup>section 104 holding] for the purpose of computing the indexation allowance;
  - (b) have effect subject to sections 105 and 106.
- (2) On any disposal of a <sup>F24</sup>section 104 holding], other than a disposal of the whole of it—
- (a) the qualifying expenditure and the indexed pool of expenditure shall each be apportioned between the part disposed of and the remainder in the same proportions as, under this Act, the relevant allowable expenditure is apportioned; and
  - (b) the indexation allowance is the amount by which the portion of the indexed pool which is attributed to the part disposed of exceeds the portion of the qualifying expenditure which is attributed to that part.
- (3) On a disposal of the whole of a <sup>F24</sup>section 104 holding], the indexation allowance is the amount by which the indexed pool of expenditure at the time of the disposal exceeds the qualifying expenditure at that time.
- (4) In relation to a <sup>F24</sup>section 104 holding], the qualifying expenditure is at any time the amount which would be the aggregate of the relevant allowable expenditure in relation to a disposal of the whole of the holding occurring at that time.

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(5) Subject to subsection (6) below and section 114 the indexed pool of expenditure shall come into being at the time that the holding comes into being or, if it is earlier, when any of the qualifying expenditure is incurred and shall at the time it comes into being be the same as the qualifying expenditure at that time.

(6) In relation to a [<sup>F24</sup>section 104 holding] which was in existence immediately before the coming into force of this section, the indexed pool of expenditure on the coming into force of this section shall be the same as it was for the purposes of Part III of Schedule 19 to the <sup>M2</sup>Finance Act 1985 immediately before then.

[<sup>F25</sup>(6A) Where a disposal to a person acquiring or adding to a [<sup>F24</sup>section 104 holding] is treated by virtue of any enactment as one on which neither a gain nor a loss accrues to the person making the disposal—

(a) section 56(2) shall not apply to the disposal (and, accordingly, the amount of the consideration shall not be calculated on the assumption that a gain of an amount equal to the indexation allowance accrues to the person making the disposal), but

(b) an amount equal to the indexation allowance on the disposal shall be added to the indexed pool of expenditure for the holding acquired or, as the case may be, held by the person to whom the disposal is made (and, where it is added to the indexed pool of expenditure for a holding so held, it shall be added after any increase required by subsection (8)(a) below).]

(7) Any reference below to an operative event is a reference to any event (whether a disposal or otherwise) which has the effect of reducing or increasing the qualifying expenditure referable to the [<sup>F24</sup>section 104 holding].

(8) Whenever an operative event occurs—

(a) there shall be added to the indexed pool of expenditure the indexed rise, as calculated under subsection (10) or (11) below, in the value of the pool since the last operative event or, if there has been no previous operative event, since the pool came into being; and

(b) if the operative event results in an increase in the qualifying expenditure then, in addition to any increase under paragraph (a) above, the same increase shall be made to the indexed pool of expenditure; and

(c) if the operative event is a disposal resulting in a reduction in the qualifying expenditure, the indexed pool of expenditure shall be reduced in the same proportion as the qualifying expenditure is reduced; and

(d) if the operative event results in a reduction in the qualifying expenditure but is not a disposal, the same reduction shall be made to the indexed pool of expenditure.

(9) Where the operative event is a disposal—

(a) any addition under subsection (8)(a) above shall be made before the calculation of the indexation allowance under subsection (2) above; and

(b) the reduction under subsection (8)(c) above shall be made after that calculation.

(10) At the time of any operative event, the indexed rise in the indexed pool of expenditure is a sum produced by multiplying the value of the pool immediately before the event by a figure expressed as a decimal and determined, subject to subsection (11) below, by the formula—



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**RE – RL**

**RL**

where—

RE is the retail prices index for the month in which the operative event occurs; and

RL is the retail prices index for the month in which occurred the immediately preceding operative event or, if there has been no such event, in which the indexed pool of expenditure came into being.

- (11) If RE, as defined in subsection (10) above, is equal to or less than RL, as so defined, the indexed rise is nil.

#### Textual Amendments

- F23** Words in s. 110(1) substituted (with effect in accordance with s. 125(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 125\(1\)](#)
- F24** Words in s. 110 substituted (with effect in accordance with s. 123(6) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 123\(5\)\(b\)](#)
- F25** S. 110(6A) inserted (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 93\(6\)](#) (with [Sch. 12](#))

#### Modifications etc. (not altering text)

- C2** Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\), reg. 27\(2\)](#) (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869, regs. 1\(1\), 12](#))
- C3** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\), regs. 1, 34\(2\)](#)

#### Marginal Citations

- M2** [1985 c. 54.](#)

### [<sup>F26</sup>110A] Indexation for section 104 holdings: capital gains tax.

- (1) For the purposes of capital gains tax (but not corporation tax) where—
- there is a disposal on or after 6th April 1998 of a section 104 holding, and
  - any of the relevant allowable expenditure was incurred before 6th April 1998,
- this section applies, in place of section 54 and subject to section 105, for computing the indexation allowance.
- (2) There shall be an indexed pool of expenditure and subsection (2) or, as the case may be, subsection (3) of section 110 shall apply by reference to that pool in relation to the disposal as it would apply (by reference to the pool for which that section provides) for the purposes of corporation tax.
- (3) The amount at any time of the indexed pool of expenditure shall be determined by—
- taking the amount which would, under section 110 and section 114, have been the amount of the indexed pool of expenditure for the purposes of a disposal of the whole of the holding at the end of 5th April 1998; and



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- (b) making any adjustments by way of increase or reduction that would be required to be made by virtue of subsection (8) of section 110 on the assumptions set out in subsection (4) below.
- (4) Those assumptions are—
  - (a) that the indexed pool of expenditure is an indexed pool of expenditure for the purposes of section 110;
  - (b) that no increase or reduction is to be made except for an operative event on or after 6th April 1998; and
  - (c) that paragraph (a) of section 110(8) and section 114 are to be disregarded.
- (5) For the purposes of making any adjustment in accordance with subsection (3)(b) above, subsection (9) of section 110 shall be assumed to provide only that, where the operative event is a disposal, the calculation of the indexation allowance under subsection (2) of that section, as applied by subsection (2) above, is to be made before the reduction under subsection (8)(c) of that section.]

**Textual Amendments**

**F26** S. 110A inserted (with effect in accordance with s. 125(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 125\(2\)](#)

**Modifications etc. (not altering text)**

**C2** Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\)](#), [reg. 27\(2\)](#) (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869](#), [regs. 1\(1\), 12](#))

**C3** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), [regs. 1, 34\(2\)](#)

**F27** **111 Indexation: building society etc. shares.**

**Textual Amendments**

**F27** S. 111 repealed (with effect in accordance with s. 93(11) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [s. 93\(7\)](#), [Sch. 26 Pt. V\(8\)](#) (with [Sch. 12](#))

**112 Parallel pooling regulations.**

- (1) The <sup>M3</sup>Capital Gains Tax (Parallel Pooling) Regulations 1986 made by the Treasury under paragraph 21 of Schedule 19 to the <sup>M4</sup>Finance Act 1985 shall continue to have effect notwithstanding the repeal by this Act of that Schedule, and for the purposes of section 14 of the <sup>M5</sup>Interpretation Act 1978 that paragraph shall be deemed not to have been repealed.
- (2) An election under Schedule 6 to the <sup>M6</sup>Finance Act 1983 which has not been revoked before 6th April 1992 shall not have effect in relation to any disposal after 5th April 1992 and may, if the Board allow, be revoked by notice to the inspector.

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- (3) All such adjustments shall be made, whether by way of discharge or repayment of tax, or the making of assessments or otherwise, as are required in consequence of a revocation under subsection (2) above.

**Modifications etc. (not altering text)**

- C2** Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\)](#), **reg. 27(2)** (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869](#), **regs. 1(1), 12**)
- C3** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), **regs. 1, 34(2)**

**Marginal Citations**

- M3** [S.I.1986/387](#).
- M4** [1985 c. 54](#).
- M5** [1978 c. 30](#).
- M6** [1983 c. 28](#).

**113 Calls on shares.**

- (1) Subsection (2) below applies where—
- (a) on a disposal to which section 53 applies, the relevant allowable expenditure is or includes the amount or value of the consideration given for the issue of shares or securities in, or debentures of, a company; and
  - (b) the whole or some part of that consideration was given after the expiry of the period of 12 months beginning on the date of the issue of the shares, securities or debentures.
- (2) For the purpose of computing the indexation allowance (if any) on the disposal referred to in subsection (1)(a) above—
- (a) so much of the consideration as was given after the expiry of the period referred to in subsection (1)(b) above shall be regarded as an item of expenditure separate from any consideration given during that period; and
  - (b) section 54(4) shall not apply to that separate item of expenditure which, accordingly, shall be regarded as incurred at the time the consideration in question was actually given.

**Modifications etc. (not altering text)**

- C2** Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\)](#), **reg. 27(2)** (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869](#), **regs. 1(1), 12**)
- C3** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), **regs. 1, 34(2)**

**114 Consideration for options.**

- (1) If, in a case where section 110(8)(b) applies, the increase in the qualifying expenditure is, in whole or in part, attributable to the cost of acquiring an option binding the grantor to sell (“the option consideration”), then, in addition to any increase under

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section 110(8)(a) or (b), the indexed pool of expenditure shall be increased by an amount equal to the indexed rise in the option consideration, as determined under subsection (2) below.

- (2) The indexed rise in the option consideration is a sum produced by multiplying the consideration by a figure expressed as a decimal and determined, subject to subsection (3) below, by the formula—

$$\frac{RO - RA}{RA}$$

where—

RO is the retail prices index for the month in which falls the date on which the option is exercised; and

RA is the retail prices index for the month in which falls the date in which the option was acquired or, if it is later, March 1982.

- (3) If RO, as defined in subsection (2) above, is equal to or less than RA, as so defined, the indexed rise is nil.

**Modifications etc. (not altering text)**

- C2** Ss. 104-114 modified by [The Personal Equity Plan Regulations 1989 \(S.I. 1989/469\)](#), [reg. 27\(2\)](#) (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [S.I. 1998/1869](#), [regs. 1\(1\), 12](#))
- C3** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), [regs. 1, 34\(2\)](#)

*Gilt-edged securities and qualifying corporate bonds*

**115 Exemptions for gilt-edged securities and qualifying corporate bonds etc.**

- (1) A gain which accrues on the disposal by any person of—
- gilt-edged securities or qualifying corporate bonds, or
  - any option or contract to acquire or dispose of gilt-edged securities or qualifying corporate bonds,
- shall not be a chargeable gain.
- (2) In subsection (1) above the reference to the disposal of a contract to acquire or dispose of gilt-edged securities or qualifying corporate bonds is a reference to the disposal of the outstanding obligations under such a contract.
- (3) Without prejudice to section 143(5), where a person who has entered into any such contract as is referred to in subsection (1)(b) above closes out that contract by entering into another contract with obligations which are reciprocal to those of the first-mentioned contract, that transaction shall for the purposes of this section constitute the disposal of an asset, namely, his outstanding obligations under the first-mentioned contract.

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## 116 Reorganisations, conversions and reconstructions.

- (1) This section shall have effect in any case where a transaction occurs of such a description that, apart from the provisions of this section—
- (a) sections 127 to 130 would apply by virtue of any provision of Chapter II of this Part; and
  - (b) either the original shares would consist of or include a qualifying corporate bond and the new holding would not, or the original shares would not and the new holding would consist of or include such a bond;
- and in paragraph (b) above “the original shares” and “the new holding” have the same meaning as they have for the purposes of sections 127 to 130.
- (2) In this section [F<sup>28</sup>references to a transaction include references to any conversion of securities (whether or not effected by a transaction) within the meaning of section 132 and] “relevant transaction” means a reorganisation, conversion of securities or other transaction such as is mentioned in subsection (1) above, and, in addition to its application where the transaction takes place after the coming into force of this section, subsection (10) below applies where the relevant transaction took place before the coming into force of this section so far as may be necessary to enable any gain or loss deferred under paragraph 10 of Schedule 13 to the <sup>M7</sup>Finance Act 1984 to be taken into account on a subsequent disposal.
- (3) Where the qualifying corporate bond referred to in subsection (1)(b) above would constitute the original shares for the purposes of sections 127 to 130, it is in this section referred to as “the old asset” and the shares or securities which would constitute the new holding for those purposes are referred to as “the new asset”.
- (4) Where the qualifying corporate bond referred to in subsection (1)(b) above would constitute the new holding for the purposes of sections 127 to 130, it is in this section referred to as “the new asset” and the shares or securities which would constitute the original shares for those purposes are referred to as “the old asset”.
- [F<sup>29</sup>(4A) In determining for the purposes of subsections (1) to (4) above, as they apply for the purposes of corporation tax—
- (a) whether sections 127 to 130 would apply in any case, and
  - (b) what, in a case where they would apply, would constitute the original shares and the new holding,
- it shall be assumed that every asset representing a loan relationship of a company is a security within the meaning of section 132.]
- (5) So far as the relevant transaction relates to the old asset and the new asset, sections 127 to 130 shall not apply in relation to it.
- (6) In accordance with subsection (5) above, the new asset shall not be treated as having been acquired on any date other than the date of the relevant transaction or, subject to subsections (7) and (8) below, for any consideration other than the market value of the old asset as determined immediately before that transaction.
- (7) If, on the relevant transaction, the person concerned receives, or becomes entitled to receive, any sum of money which, in addition to the new asset, is by way of consideration for the old asset, that sum shall be deducted from the consideration referred to in subsection (6) above.

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*Status: Point in time view as at 01/09/2004.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, Chapter I is up to date with all changes known to be in force on or before 15 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)*

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(8) If, on the relevant transaction, the person concerned gives any sum of money which, in addition to the old asset, is by way of consideration for the new asset, that sum shall be added to the consideration referred to in subsection (6) above.

[<sup>F30</sup>(8A) Where subsection (6) above applies for the purposes of corporation tax in a case where the old asset consists of a qualifying corporate bond, Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall have effect so as to require such debits and credits to be brought into account for the purposes of that Chapter in relation to the relevant transaction as would have been brought into account if the transaction had been a disposal of the old asset at the market value mentioned in that subsection.]

(9) In any case where the old asset consists of a qualifying corporate bond, then, so far as it relates to the old asset and the new asset, the relevant transaction shall be treated for the purposes of this Act as a disposal of the old asset and an acquisition of the new asset.

(10) Except in a case falling within subsection (9) above, so far as it relates to the old asset and the new asset, the relevant transaction shall be treated for the purposes of this Act as not involving any disposal of the old asset but—

(a) there shall be calculated the chargeable gain or allowable loss that would have accrued if, at the time of the relevant transaction, the old asset had been disposed of for a consideration equal to its market value immediately before that transaction; and

(b) subject to subsections (12) to (14) below, the whole or a corresponding part of the chargeable gain or allowable loss mentioned in paragraph (a) above shall be deemed to accrue on a subsequent disposal of the whole or part of the new asset (in addition to any gain or loss that actually accrues on that disposal); and

(c) on that subsequent disposal, section 115 shall have effect only in relation to any gain or loss that actually accrues and not in relation to any gain or loss which is deemed to accrue by virtue of paragraph (b) above.

(11) Subsection (10)(b) and (c) above shall not apply to any disposal falling within section 58(1), 62(4), 139, [<sup>F31</sup>140A,]<sup>F32</sup> or 171(1)], but a person who has acquired the new asset on a disposal falling within any of those sections (and without there having been a previous disposal not falling within any of those sections or a devolution on death) shall be treated for the purposes of subsection (10)(b) and (c) above as if the new asset had been acquired by him at the same time and for the same consideration as, having regard to subsections (5) to (8) above, it was acquired by the person making the disposal.

(12) In any case where—

(a) on the calculation under subsection (10)(a) above, a chargeable gain would have accrued, and

(b) the consideration for the old asset includes such a sum of money as is referred to in subsection (7) above,

then, subject to subsection (13) below, the proportion of that chargeable gain which that sum of money bears to the market value of the old asset immediately before the relevant transaction shall be deemed to accrue at the time of that transaction.

(13) If <sup>F33</sup>... the sum of money referred to in subsection (12)(b) above is small, as compared with the market value of the old asset immediately before the relevant transaction, <sup>F33</sup>... subsection (12) above shall not apply.

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(14) In a case where subsection (12) above applies, the chargeable gain which, apart from that subsection, would by virtue of subsection (10)(b) above be deemed to accrue on a subsequent disposal of the whole or part of the new asset shall be reduced or, as the case may be, extinguished by deducting therefrom the amount of the chargeable gain which, by virtue of subsection (12) above, is deemed to accrue at the time of the relevant transaction.

(15) In any case where—

- (a) the new asset mentioned in subsections (10) and (11) above is a qualifying corporate bond in respect of which an allowable loss is treated as accruing under section 254(2), and
- (b) the loss is treated as accruing at a time falling after the relevant transaction but before any actual disposal of the new asset subsequent to the relevant transaction,

then for the purposes of subsections (10) and (11) above a subsequent disposal of the new asset shall be treated as occurring at (and only at) the time the loss is treated as accruing.

[<sup>F34</sup>(16) This section has effect for the purposes of corporation tax notwithstanding anything in section 80(5) of the Finance Act 1996 (matters to be brought into account in the case of loan relationships only under Chapter II of Part IV of that Act).]

#### Textual Amendments

- F28** Words in s. 116(2) inserted (with effect in accordance with s. 88(6) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [s. 88\(4\)](#)
- F29** S. 116(4A) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 60\(2\)](#) (with [Sch. 15](#))
- F30** S. 116(8A) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 60\(3\)](#) (with [Sch. 15](#))
- F31** Words in s. 116(11) inserted (*retrosp.*) by [1992 c. 48](#), [s. 46\(1\)\(3\)](#)
- F32** Words in s. 116(11) substituted (with effect in accordance with [Sch. 29 para. 19\(2\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 19\(1\)](#) (with [Sch. 29 para. 46\(5\)](#))
- F33** Words in s. 116(13) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 51](#), [Sch. 41 Pt. V\(10\)](#)
- F34** S. 116(16) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 60\(4\)](#) (with [Sch. 15](#))

#### Modifications etc. (not altering text)

- C10** S. 116 modified (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [s. 98](#), [Sch. 10 para. 5\(1\)\(3\)](#)
- C11** S. 116 modified (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [s. 105](#), [Sch. 15 para. 30\(2\)](#)
- C12** S. 116 excluded (24.7.1996) by [Broadcasting Act 1996 \(c. 55\)](#), [s. 149\(1\)](#), [Sch. 7 para. 7\(1\)\(b\)](#) (with [Sch. 7 para. 9\(1\)](#))
- C13** S. 116 modified (with effect in accordance with s. 66(1) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 66\(2\)](#)
- C14** S. 116 applied (with effect in accordance with s. 63(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 15 para. 80\(1\)](#)
- C15** S. 116 modified (with effect in accordance with s. 63(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 15 para. 88](#)

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- C16** S. 116(10) excluded (with effect in accordance with s. 63(4) of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 15 para. 81\(2\)](#)
- C17** S. 116(10)(a) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Exchange Gains and Losses \(Bringing into Account Gains or Losses\) Regulations 2002 \(S.I. 2002/1970\), regs. 1\(1\), 9\(4\)\(a\)](#)

**Marginal Citations**

- M7** 1984 c. 43.

**117 Meaning of “qualifying corporate bond”.**

[<sup>F35</sup>(A1) For the purposes of corporation tax “qualifying corporate bond” means <sup>F36</sup>... any asset representing a loan relationship of a company; and for purposes other than those of corporation tax references to a qualifying corporate bond shall be construed in accordance with the following provisions of this section.]

(1) For the purposes of this section, a “corporate bond” is a security, as defined in section 132(3)(b)—

- (a) the debt on which represents and has at all times represented a normal commercial loan; and
- (b) which is expressed in sterling and in respect of which no provision is made for conversion into, or redemption in, a currency other than sterling,

and in paragraph (a) above “normal commercial loan” has the meaning which would be given by sub-paragraph (5) of paragraph 1 of Schedule 18 to the Taxes Act if for paragraph (a)(i) to (iii) of that sub-paragraph there were substituted the words “corporate bonds (within the meaning of section 117 of the 1992 Act)”.

(2) For the purposes of subsection (1)(b) above—

- (a) a security shall not be regarded as expressed in sterling if the amount of sterling falls to be determined by reference to the value at any time of any other currency or asset; and
- (b) a provision for redemption in a currency other than sterling but at the rate of exchange prevailing at redemption shall be disregarded.

[<sup>F37</sup>(2AA) For the purposes of this section “corporate bond” also includes any asset which is not included in the definition in subsection (1) above and which is a relevant discounted security for the purposes of Schedule 13 to the Finance Act 1996.]

<sup>F38</sup>(2A) .....

<sup>F39</sup>(3) .....

(4) For the purposes of this section “corporate bond” also includes a share in a building society—

- (a) which is a qualifying share,
- (b) which is expressed in sterling, and
- (c) in respect of which no provision is made for conversion into, or redemption in, a currency other than sterling.

(5) For the purposes of subsection (4) above, a share in a building society is a qualifying share if—

- (a) it is a permanent interest bearing share, or

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- (b) it is of a description specified in regulations made by the Treasury for the purposes of this paragraph.
- (6) Subsection (2) above applies for the purposes of subsection (4) above as it applies for the purposes of subsection (1)(b) above, treating the reference to a security as a reference to a share.
- <sup>F40</sup>[(6A) For the purposes of this section “corporate bond” also includes, except in relation to a person who acquires it on or after a disposal in relation to which section 115 has or has had effect in accordance with section 116(10)(c), any debenture issued on or after 16th March 1993 which is not a security (as defined in section 132) but—
- (a) is issued in circumstances such that it would fall by virtue of section 251(6) to be treated for the purposes of section 251 as such a security; and
  - (b) would be a corporate bond if it were a security as so defined.]
- <sup>F41</sup>[(6B) An excluded indexed security issued on or after 6th April 1996 is not a corporate bond for the purposes of this section; and an excluded indexed security issued before that date shall be taken to be such a bond for the purposes of this section only if—
- (a) it would be so taken apart from this subsection; and
  - (b) the question whether it should be so taken arises for the purposes of section 116(10).
- (6C) In subsection (6B) above “excluded indexed security” has the same meaning as in Schedule 13 to the Finance Act 1996 (relevant discounted securities).]
- (7) Subject to subsections (9) and (10) below, for the purposes of this Act, a corporate bond—
- (a) is a “qualifying” corporate bond if it is issued after 13th March 1984; and
  - (b) becomes a “qualifying” corporate bond if, having been issued on or before that date, it is acquired by any person after that date and that acquisition is not as a result of a disposal which is excluded for the purposes of this subsection, or which was excluded for the purposes of section 64(4) of the <sup>M8</sup>Finance Act 1984.
- (8) Where a person disposes of a corporate bond which was issued on or before 13th March 1984 and, before the disposal, the bond had not become a qualifying corporate bond, the disposal is excluded for the purposes of subsection (7) above if, by virtue of any enactment—
- (a) the disposal is treated for the purposes of this Act as one on which neither a gain nor a loss accrues to the person making the disposal; or
  - (b) the consideration for the disposal is treated for the purposes of this Act as reduced by an amount equal to the held-over gain on that disposal, as defined for the purposes of section 165 or 260.
- <sup>F42</sup>[(8A) A corporate bond falling within subsection (2AA) above is a qualifying corporate bond whatever its date of issue.]
- <sup>F43</sup>(9) .....
- <sup>F43</sup>(10) .....
- (11) For the purposes of this section—



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- (a) where a security is comprised in a letter of allotment or similar instrument and the right to the security thereby conferred remains provisional until accepted, the security shall not be treated as issued until there has been acceptance; and
- [<sup>F44</sup>(b) “permanent interest bearing share” means a share which is a permanent interest bearing share within the meaning of, and is eligible for inclusion in the calculation for capital adequacy in accordance with, the Prudential Sourcebook (Building Societies) as that Sourcebook applies in relation to shares issued on the date that the share is issued,
- and in paragraph (b) above “the Prudential Sourcebook (Building Societies)” means the Interim Prudential Sourcebook for Building Societies made by the Financial Services Authority under the Financial Services and Markets Act 2000].
- (12) The Treasury may by regulations provide that for the definition of the expression “permanent interest bearing share” in subsection (11) above (as it has effect for the time being) there shall be substituted a different definition of that expression, and regulations under this subsection or subsection (5)(b) above may contain such supplementary, incidental, consequential or transitional provision as the Treasury thinks fit.
- (13) This section shall have effect for the purposes of section 254 with the omission of subsections (4) to (6), (11) and (12).

#### Textual Amendments

- F35** S. 117(A1) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 61\(1\)](#) (with [Sch. 15](#))
- F36** Words in s. 117(A1) repealed (with effect in accordance with Sch. 40 Pt. 3(10) Note 2 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 40 Pt. 3\(10\)](#)
- F37** S. 117(2AA) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 61\(2\)](#) (with [Sch. 15](#))
- F38** S. 117(2A) repealed (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. V\(3\)](#) (with [Sch. 15](#))
- F39** S. 117(3) repealed (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. V\(3\)](#) (with [Sch. 15](#))
- F40** S. 117(6A) inserted (27.7.1993 with effect as mentioned in s. 84(3)) by [1993 c. 34, s. 84\(1\)\(3\)](#)
- F41** S. 117(6B)(6C) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 61\(3\)](#) (with [Sch. 15](#))
- F42** S. 117(8A) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 61\(4\)](#) (with [Sch. 15](#))
- F43** S. 117(9)(10) repealed (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. V\(3\)](#) (with [Sch. 15](#))
- F44** Words in s. 117(11) substituted (with effect in accordance with art. 63(2) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), arts. 1(2)(a), [63\(1\)](#)

#### Modifications etc. (not altering text)

- C18** S. 117 applied by [1993 c. 34, s. 153\(11A\)](#) (as inserted (retrospective to 27.7.1993) by [Finance Act 1995 \(c. 4\)](#), [Sch. 24 paras. 1, 4\(4\)](#))
- S. 117 modified by [1993 c. 34, Sch. 17 para. 5](#) (as substituted (retrospective to 27.7.1993) by [Finance Act 1995 \(c. 4\)](#), [Sch. 24 paras. 1, 6](#))
- C19** S. 117(2AA) modified (27.7.1999) by [Finance Act 1999 \(c. 16\)](#), [s. 65\(11\)](#)

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### Marginal Citations

M8 1984 c. 43.

## <sup>F45</sup> 117A Assets that are not qualifying corporate bonds for corporation tax purposes.

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### Textual Amendments

**F45** Ss. 117A, 117B repealed (with effect in accordance with Sch. 40 Pt. 3(10) Note 2 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), **Sch. 40 Pt. 3(10)**

## <sup>F45</sup> 117B Holdings in unit trusts and offshore funds excluded from treatment as qualifying corporate bonds.

.....

### Textual Amendments

**F45** Ss. 117A, 117B repealed (with effect in accordance with Sch. 40 Pt. 3(10) Note 2 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), **Sch. 40 Pt. 3(10)**

*Deep discount securities, the accrued income scheme etc.*

## <sup>F46</sup> 118 Amount to be treated as consideration on disposal of deep discount securities etc.

.....

### Textual Amendments

**F46** S. 118 repealed (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 41 Pt. V(3)** (with [Sch. 15](#))

## 119 Transfers of securities subject to the accrued income scheme.

- (1) Where there is a transfer of securities within the meaning of section 710 of the Taxes Act (accrued income scheme)—
  - (a) if section 713(2)(a) or (3)(a) of that Act applies, section 37 shall be disregarded in computing the gain accruing on the disposal concerned;
  - (b) if section 713(2)(b) or (3)(b) of that Act applies, section 39 shall be disregarded in computing the gain accruing to the transferee if he disposes of the securities;
 but subsections (2) and (3) below shall apply.
- (2) Where the securities are transferred with accrued interest (within the meaning of section 711 of the Taxes Act)—

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- (a) if section 713(2)(a) of that Act applies, an amount equal to the accrued amount (determined under that section) shall be excluded from the consideration mentioned in subsection (8) below;
  - (b) if section 713(2)(b) of that Act applies, an amount equal to that amount shall be excluded from the sums mentioned in subsection (9) below.
- (3) Where the securities are transferred without accrued interest (within the meaning of section 711 of the Taxes Act)—
  - (a) if section 713(3)(a) of that Act applies, an amount equal to the rebate amount (determined under that section) shall be added to the consideration mentioned in subsection (8) below;
  - (b) if section 713(3)(b) of that Act applies, an amount equal to that amount shall be added to the sums mentioned in subsection (9) below.
- (4) Where section 716 of the Taxes Act applies—
  - (a) if subsection (2) or (3) of that section applies, section 37 shall be disregarded in computing the gain accruing on the disposal concerned, but the relevant amount shall be excluded from the consideration mentioned in subsection (8) below; and
  - (b) if subsection (4) of that section applies, section 39 shall be disregarded in computing the gain accruing on the disposal concerned, but the relevant amount shall be excluded from the sums mentioned in subsection (9) below.
- (5) In subsection (4) above “the relevant amount” means an amount equal to—
  - (a) if paragraph (b) below does not apply, the amount of the unrealised interest in question (within the meaning of section 716 of the Taxes Act);
  - (b) if section 719 of the Taxes Act applies—
    - (i) in a case falling within subsection (4)(a) above, amount A (within the meaning of section 719);
    - (ii) in a case falling within subsection (4)(b) above, amount C (within the meaning of section 719).
- (6) In relation to any securities which by virtue of subsection (7) below are treated for the purposes of this subsection as having been transferred, subsections (2) and (3) above shall have effect as if for “applies” (in each place where it occurs) there were substituted “ would apply if the disposal were a transfer ”.
- (7) Where there is a disposal of securities for the purposes of this Act which is not a transfer for the purposes of section 710 of the Taxes Act but, if it were such a transfer, one or more of the following paragraphs would apply, namely, paragraphs (a) and (b) of section 713(2) and paragraphs (a) and (b) of section 713(3) of that Act, the securities shall be treated—
  - (a) for the purposes of subsection (6) above, as transferred on the day of the disposal, and
  - (b) for the purposes of subsections (2) and (3) above, as transferred with accrued interest if, had the disposal been a transfer for the purposes of section 710, it would have been a transfer with accrued interest and as transferred without accrued interest if, had the disposal been such a transfer, it would have been a transfer without accrued interest.
- (8) The consideration is the consideration for the disposal of the securities transferred which is taken into account in the computation of the gain accruing on the disposal.

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- (9) The sums are the sums allowable to the transferee as a deduction from the consideration in the computation of the gain accruing to him if he disposes of the securities.
- (10) Where on a conversion or exchange of securities a person is treated as entitled to a sum under subsection (2)(a) of section 713 of the Taxes Act an amount equal to the accrued amount (determined under that section) shall, for the purposes of this Act, be treated as follows—
- (a) to the extent that it does not exceed the amount of any consideration which the person receives (or is deemed to receive) or becomes entitled to receive on the conversion or exchange (other than his new holding), it shall be treated as reducing that consideration; and
  - (b) to the extent that it does exceed that amount, it shall be treated as consideration which the person gives on the conversion or exchange;
- and where on a conversion or exchange of securities a person is treated as entitled to relief under subsection (3)(a) of that section an amount equal to the rebate amount (determined under that section) shall, for the purposes of the computation of the gain, be treated as consideration which the person receives on the conversion or exchange.
- (11) In subsection (10) above “conversion” means conversion within the meaning of section 132 and “exchange” means an exchange which by virtue of Chapter II of this Part does not involve a disposal.

**[<sup>F47</sup>119A Increase in expenditure by reference to tax charged in relation to employment-related securities**

- (1) This section applies to a disposal of an asset consisting of employment-related securities if the disposal—
- (a) is an event giving rise to a relevant income tax charge, or
  - (b) is the first disposal after an event, other than a disposal, giving rise to a relevant income tax charge.
- (2) Section 38(1)(a) applies as if the relevant amount had formed part of the consideration given by the person making the disposal for his acquisition of the employment-related securities.
- (3) For the purposes of this section an event gives rise to a relevant income tax charge if it results in an amount counting as employment income—
- (a) under section 426 of ITEPA 2003 (restricted securities),
  - (b) under section 438 of ITEPA 2003 by virtue of section 439(3)(a) of that Act (conversion of convertible securities),
  - (c) under section 446U of ITEPA 2003 (securities acquired for less than market value: discharge of notional loan), or
  - (d) under section 476 of ITEPA 2003 by virtue of section 477(3)(a) of that Act (acquisition of securities pursuant to employment-related securities option),
- in respect of the employment-related securities.
- (4) For the purposes of this section “the relevant amount” is the aggregate of the amounts counting as employment income as mentioned in subsection (3) above by reason of events occurring—
- (a) not later than the disposal, and

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- (b) where this section has applied to an earlier disposal of the employment-related securities, after the last disposal to which this section applied.

[<sup>F48</sup>(5) In determining for the purposes of subsection (4) the amount counting as employment income—

- (a) in the case of an amount counting as employment income under section 476 of ITEPA 2003 any amounts deducted under section 480(5)(a) or (b) of that Act shall be added back, and
- (b) no account shall be taken of any relief under section 428A, 442A, 481 or 482 of that Act (relief for secondary Class 1 contributions or special contribution met by employee).]

(6) Where securities or interests in securities cease to be employment-related securities—

- (a) by reason of subsection (6) of section 421B of ITEPA 2003 in circumstances in which, immediately before the employee's death, the employment-related securities are held otherwise than by the employee, or
- (b) by reason of subsection (7) of that section,

they are to be regarded for the purposes of this section as remaining employment-related securities until the next occasion on which they are disposed of.

(7) In this section—

“employment-related securities”, and  
“employee”, in relation to employment-related securities,

have the same meaning as in Chapters 1 to 4 of Part 7 of ITEPA 2003.

<sup>F49</sup>(8) . . . . . ]

#### Textual Amendments

- F47** S. 119A inserted (with effect in accordance with Sch. 22 para. 50(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 50\(1\)](#)
- F48** S. 119A(5) substituted (1.9.2004) by [Finance Act 2004 \(c. 12\)](#), s. 85(2), [Sch. 16 para. 6\(2\)](#) (with [Sch. 16 para. 6\(4\)](#)); [S.I. 2004/1945](#), art. 2
- F49** S. 119A(8) repealed (1.9.2004) by [Finance Act 2004 \(c. 12\)](#), s. 85(2), [Sch. 16 para. 6\(3\)](#), [Sch. 42 Pt. 2\(10\)](#) (with [Sch. 16 para. 6\(4\)](#)); [S.I. 2004/1945](#), art. 2

## 120 Increase in expenditure by reference to tax charged in relation to shares etc.

[<sup>F50</sup>(1) Subsection (1A) applies where—

- (a) a person (“the employee”) has acquired shares or an interest in shares as mentioned in section 447(1) of ITEPA 2003, and
- (b) an amount counts as employment income of the employee under Chapter 4 of Part 7 of that Act in respect of the shares.

(1A) On the first disposal of the shares after the acquisition occurs, the employment income amount shall be treated for the purposes of section 38(1)(a) as consideration given by the person making the disposal for the acquisition of the shares.

(1B) For the purposes of subsections (1) and (1A)—

- (a) the “employment income amount” means the amount counting as employment income of the employee under that Chapter in respect of the shares, and

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- (b) it is immaterial whether the disposal of the shares mentioned in subsection (1A) is made by the employee or another person.]
- (2) Section 38(1)(a) applies as if the relevant amount as defined in the following provisions of this section in the cases there specified had formed part of the consideration given by the person making the disposal for his acquisition of the assets in question.
- (3) Where an amount [<sup>F51</sup>is treated as earnings under section 195(2) of ITEPA 2003] in respect of shares or an interest in shares, then—
- on a disposal of the shares or interest, where that is the event giving rise to the charge; or
  - in any case, on the first disposal of the shares or interest after the event, the relevant amount is a sum equal to the amount [<sup>F52</sup>so treated as earnings].
- (4) If a gain [<sup>F53</sup>counting as employment income under section 476 or 477 of ITEPA 2003] is realised by the exercise of a right to acquire shares, the relevant amount is a sum equal to the amount of the gain [<sup>F54</sup>so counting as employment income].
- (5) Where an amount is chargeable to tax under section 138 of the Taxes Act on a person acquiring any shares or interest in shares, then on the first disposal (whether by him or another person) of the shares after his acquisition, the relevant amount is an amount equal to the amount so chargeable.
- [<sup>F55</sup>(5A) Where an amount [<sup>F56</sup>counts as employment income under Chapter 2 of Part 7 of ITEPA 2003] in respect of—
- the acquisition or disposal of any interest in shares, or
  - any interest in shares ceasing to be only conditional,
- the relevant amount is a sum equal to the amount [<sup>F57</sup>so counting as employment income].
- (5B) Where an amount [<sup>F58</sup>counts as employment income under Chapter 3 of Part 7 of ITEPA 2003] in respect of the conversion of shares, the relevant amount is a sum equal to the amount [<sup>F59</sup>so counting as employment income].]
- <sup>F60</sup>(6) . . . . .
- [<sup>F61</sup>(7) Each of the provisions of this section mentioned in the first column of the following table is to be construed as if it were contained in the Chapter of ITEPA 2003 specified in the corresponding entry in the second column—

<i>Provision of this section</i>	<i>Chapter of ITEPA 2003</i>
subsections (1), (1A) and (1B)	Chapter 4 of Part 7
subsection (3)	Chapter 8 of Part 3
subsection (4)	Chapter 5 of Part 7
subsection (5A)	Chapter 2 of Part 7
subsection (5B)	Chapter 3 of Part 7;

and subsection (5) of this section is to be construed as one with section 138 of the Taxes Act.]

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[<sup>F62</sup>(7A) In relation to events that gave rise to amounts chargeable to income tax before 6th April 2003, this section is to be read as if any reference to an amount mentioned in the first column of the following table included a reference to an amount mentioned in the corresponding entry in the second column—

<i>Amount mentioned in this section</i>	<i>Amount chargeable before 6th April 2003</i>
an amount counting as employment income under Chapter 4 of Part 7 of ITEPA 2003	an amount chargeable to tax under Chapter 2 of Part 3 of the Finance Act 1988
an amount treated as earnings under section 195(2) of ITEPA 2003	an amount chargeable to tax under section 162(5) of the Taxes Act
an amount counting as employment income under section 476 or 477 of ITEPA 2003	an amount chargeable to tax under section 135(1) or (6) of the Taxes Act
an amount which counts as employment income under Chapter 2 of Part 7 of ITEPA 2003	an amount chargeable to tax under section 140A of the Taxes Act
an amount which counts as employment income under Chapter 3 of Part 7 of ITEPA 2003	an amount chargeable to tax under section 140D of the Taxes Act.]

[<sup>F63</sup>(8) For the purposes of subsection (5A) above this section shall have effect as if references in this section to shares included anything referred to as shares in [<sup>F64</sup>Chapter 2 of Part 7 of ITEPA 2003].]

[<sup>F65</sup>(9) References in this section to ITEPA 2003 are to that Act as originally enacted.]

#### Textual Amendments

- F50** S. 120(1)-(1B) substituted for s. 120(1) (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 210\(2\)](#) (with Sch. 7)
- F51** Words in s. 120(3) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 210\(3\)\(a\)](#) (with Sch. 7)
- F52** Words in s. 120(3) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 210\(3\)\(b\)](#) (with Sch. 7)
- F53** Words in s. 120(4) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 210\(4\)\(a\)](#) (with Sch. 7)
- F54** Words in s. 120(4) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 210\(4\)\(b\)](#) (with Sch. 7)
- F55** S. 120(5A)(5B) inserted (with effect in accordance with s. 54(6) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 54\(2\)](#)
- F56** Words in s. 120(5A) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 210\(5\)\(a\)](#) (with Sch. 7)
- F57** Words in s. 120(5A) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 210\(5\)\(b\)](#) (with Sch. 7)
- F58** Words in s. 120(5B) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 210\(6\)\(a\)](#) (with Sch. 7)

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- F59** Words in s. 120(5B) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 210(6)(b)** (with Sch. 7)
- F60** S. 120(6) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 210(7), Sch. 8 Pt. 1** (with Sch. 7)
- F61** S. 120(7) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 210(8)** (with Sch. 7)
- F62** S. 120(7A) inserted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 210(9)** (with Sch. 7)
- F63** S. 120(8) inserted (with effect in accordance with s. 54(6) of the amending Act) by **Finance Act 1998 (c. 36), s. 54(4)**
- F64** Words in s. 120(8) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 210(10)** (with Sch. 7)
- F65** S. 120(9) inserted (10.7.2003) by **Finance Act 2003 (c. 14), Sch. 22 para. 51**

*Savings certificates etc.*

## 121 Exemption for government non-marketable securities.

- (1) Savings certificates and non-marketable securities issued under the <sup>M9</sup>National Loans Act 1968 or the <sup>M10</sup>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 <sup>M11</sup>National Loans Act 1968, or section 7 of the <sup>M12</sup>National Debt Act 1958, or section 59 of the <sup>M13</sup>Finance Act 1920, and any war savings certificates as defined in section 9(3) of the <sup>M14</sup>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.

### Marginal Citations

- M9** 1968 c. 13.  
**M10** 1939 c. 117.  
**M11** 1968 c. 13.  
**M12** 1958 (7 Eliz. 2) c.6.  
**M13** 1920 c.18.  
**M14** 1972 c. 65.

*Capital distribution in respect of shares etc.*

## 122 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 126) he shall be treated as if he had in consideration of that capital distribution disposed of an interest in the shares.

(2) If <sup>F66</sup>... the amount distributed is small, as compared with the value of the shares in respect of which it is distributed, <sup>F66</sup>...—

- (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.

<sup>F67</sup>(3) .....

(4) Where the allowable expenditure is less than the amount distributed (or is nil)—

- (a) [<sup>F68</sup>subsection (2)] 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 38(1).

(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.

#### Textual Amendments

**F66** Words in s. 122(2) repealed (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 52(1), Sch. 41 Pt. V(10)

**F67** S. 122(3) repealed (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 52(2), Sch. 41 Pt. V(10)

**F68** Words in s. 122(4)(a) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 52(3)

#### Modifications etc. (not altering text)

**C20** S. 122 modified (27.7.1992) by 1993 c. 37, s. 12, Sch. 2 Pt. I para. 16(2)(b)

## 123 Disposal of right to acquire shares or debentures.

(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 122 shall apply as if the amount of the consideration for the disposal were a capital distribution received by him from the company in respect

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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) 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*

#### **124 Disposal of shares: relief in respect of income tax consequent on shortfall in distributions.**

- (1) If in pursuance of section 426 of the Taxes Act (consequences for income tax of apportionment of income etc. of close company) a person is assessed to income tax, then, in the computation 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 section 427(4) of the Taxes Act or in relation to tax treated as having been paid by virtue of section 426(2)(b) of that Act.
- (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.

#### **125 Shares in close company transferring assets at an undervalue.**

- (1) If a company which is a close company transfers, or has after 31st March 1982 transferred, 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 of the 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 38(1)(a) from the consideration for the disposal.
- (3) If the person owning any of the 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.

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- (4) This section shall not apply where the transfer of the asset is a disposal to which section 171(1) applies.
- (5) In relation to a disposal to which section 35(2) does not apply, subsection (1) above shall have effect with the substitution of “ 6th April 1965 ” for “31st March 1982”.

**Status:**

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