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# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART IV U.K.

SHARES, SECURITIES, OPTIONS ETC.

### CHAPTER I U.K.

GENERAL

*Gilt-edged securities and qualifying corporate bonds*

#### 115 Exemptions for gilt-edged securities and qualifying corporate bonds etc. U.K.

- (1) A gain which accrues on the disposal by any person of—
  - (a) gilt-edged securities or qualifying corporate bonds, or
  - (b) 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. **U.K.**

- (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 “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>M1</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”.
- (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.
- (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.
- (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—

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- (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, [F1140A,] 171(1) or 172, 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 the inspector is satisfied that 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, and so directs, subsection (12) above shall not apply.
- (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.

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#### Textual Amendments

**F1** Words in s. 116(11) inserted (*retrosp.*) by 1992 c. 48, s. 46(1)(3)

#### Marginal Citations

**M1** 1984 c. 43.

### 117 Meaning of “qualifying corporate bond”. **U.K.**

- (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.
- (3) For the purposes of this section “corporate bond” also includes a security which is not included in the definition in subsection (1) above, and which—
  - (a) is a deep gain security for the purposes of Schedule 11 to the <sup>M2</sup>Finance Act 1989 (“the 1989 Act”), or
  - (b) by virtue of paragraph 21(2) of Schedule 11 to the 1989 Act falls to be treated as a deep gain security as there mentioned, or
  - (c) by virtue of paragraph 22(2) of that Schedule, falls to be treated as a deep gain security as there mentioned, or
  - (d) by virtue of paragraph 22A(2) or 22B(3) of that Schedule, falls to be treated as a deep gain security as mentioned in the paragraph concerned.
- (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
  - (b) it is of a description specified in regulations made by the Treasury for the purposes of this paragraph.

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- (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.
- (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>M3</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.
- (9) Subject to subsection (10) below, for the purposes of this Act—
- (a) a corporate bond which falls within subsection (3)(a) above is a qualifying corporate bond, whatever the date of its issue;
  - (b) a corporate bond which falls within subsection (3)(b) above is a qualifying corporate bond as regards a disposal made after the time mentioned in paragraph 21(1)(c) of Schedule 11 to the 1989 Act, whatever the date of its issue;
  - (c) a corporate bond which falls within subsection (3)(c) above is a qualifying corporate bond as regards a disposal made after the time the agreement mentioned in paragraph 22(1)(b) of that Schedule is made, whatever the date of its issue;
  - (d) a corporate bond which falls within subsection (3)(d) above is a qualifying corporate bond as regards a disposal made after the time mentioned in paragraph 22A(1)(c) or 22B(2)(b) of that Schedule (as the case may be);
- and subsections (7) and (8) above shall not apply in the case of any such bond.
- (10) A security which is issued by a member of a group of companies to another member of the same group is not a qualifying corporate bond for the purposes of this Act except in relation to a disposal by a person who (at the time of the disposal) is not a member of the same group as the company which issued the security; and references in this subsection to a group of companies or to a member of a group shall be construed in accordance with section 170(2) to (14).
- (11) For the purposes of this section—
- (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

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- (b) “permanent interest bearing share” has the same meaning as in the <sup>M4</sup>Building Societies (Designated Capital Resources) (Permanent Interest Bearing Shares) Order 1991.
- (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).

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**Marginal Citations**

**M2** 1989 c. 26.

**M3** 1984 c. 43.

**M4** S.I.1991/702.

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