



# 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; and
  - (b) has effect subject to sections 105, 106 and 107.
- (3) For the purposes of this section and sections 105, 107, 110 and 114—
  - “a new holding” is a holding of securities which, by virtue of subsection (1) above, is to be regarded as a single asset;
  - “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

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“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.

- (4) This section and sections 110 and 114—
- (a) shall apply separately in relation to any securities held by a person to whom they were issued as an employee of the company or of any other person on terms which restrict his rights to dispose of them, so long as those terms are in force, and
  - (b) while applying separately to any such securities, shall have effect as if the owner held them in a capacity other than that in which he holds any other securities of the same class.
- (5) Nothing in this section or sections 110 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 new 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.

**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)**)

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

- (1) The following provisions 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.
- (2) Subject to section 106, where the quantity of the securities so disposed of exceeds the quantity of the securities so acquired, then so far as the excess is not required by any provision of section 104 or 107 or Schedule 2 to be identified with securities acquired before the day of the disposal, it shall be treated as diminishing a quantity subsequently acquired, and a quantity so acquired at an earlier date, rather than one so acquired at a later date.

**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—

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- (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.
- (2) Where a company is a member of a group, shares held or acquired by another member of the group shall be treated for the purposes of paragraphs (a) and (b) of subsection (1) above as held or acquired by that company and for the purposes of paragraph (b) any shares acquired by that company from another company which was a member of the group throughout the prescribed period before and after the disposal shall be disregarded.
- (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.
- (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.

#### **107 Identification of securities etc: general rules.**

- (1) Where a person disposes of securities, the securities disposed of shall be identified in accordance with the provisions of this section with securities of the same class acquired by him which could be comprised in that disposal.
- (2) This section applies notwithstanding that securities disposed of are otherwise identified by the disposal or by a transfer or delivery giving effect to it (but so that where a person disposes of securities in one capacity, they shall not be identified with securities which he 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 new holding, and
  - (b) the securities disposed of would decrease the size of, or extinguish, the same new 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 new holding or constituting a new 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 new holding or, as the case may be, as constituting a new 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.

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

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

C2 S. 107 modified by S.I. 1989/469, reg. 27A(2A) (as inserted (6.4.1996) by S.I. 1996/846, reg. 11(b))

**108 Identification of relevant securities.**

- (1) In this section “relevant securities” means—
  - (a) securities, within the meaning of section 710 of the Taxes Act;
  - [<sup>F1</sup>(aa) qualifying corporate bonds;]
  - <sup>F2</sup>(b) .....
  - (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 person 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 him 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 person disposes of securities in one capacity, they shall not be identified with securities which he 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

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

#### Textual Amendments

- F1** 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](#))
- F2** 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](#))

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## 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>M1</sup>Finance Act 1985.
- (2) Subject to subsections (3) to (5) below—
- 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
  - 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—
- shall be treated as an accretion to an existing 1982 holding or, as the case may be, as constituting a new 1982 holding; and
  - 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).

### Marginal Citations

M1 1985 c. 54.

## 110 New holdings: indexation allowance.

- (1) This section and section 114—

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- (a) apply in place of section 54 in relation to a disposal of a new holding for the purpose of computing the indexation allowance;
  - (b) have effect subject to sections 105 and 106.
- (2) On any disposal of a new 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 new 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 new 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.
- (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 new 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>F3</sup>(6A) Where a disposal to a person acquiring or adding to a new 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 new 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



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- (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—

$$\frac{RE - RL}{RL}$$

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

- F3** 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](#))

#### Marginal Citations

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

<sup>F4</sup>**111** **Indexation: building society etc. shares.**

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### Textual Amendments

- F4** 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.
- (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.

### 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.

## 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

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grantor to sell (“the option consideration”), then, in addition to any increase under 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.

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