



# 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 [<sup>F1</sup>(subject to express provision to the contrary)] 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>F2</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 <sup>F3</sup>... and 107.
- [<sup>F4</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>F5</sup>, 110A] and 114—

*Status: Point in time view as at 08/07/2008.*

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[<sup>F6</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;

“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>F7</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>F8</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>F9</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** Words in s. 104(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 17\(1\)\(2\)](#)
- F2** 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\(1\)](#)
- F3** Words in s. 104(2)(b) repealed (with effect in accordance with s. 72(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [s. 72\(2\)\(a\)](#), [Sch. 26 Pt. 3\(9\)](#)
- F4** S. 104(2A) inserted (with effect in accordance with s. 123(6) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 123\(2\)](#)
- F5** 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\(3\)](#)
- F6** 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\(3\)](#)
- F7** S. 104(4) substituted (with effect in accordance with s. 123(6) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 123\(4\)](#)
- F8** 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\(3\)](#)
- F9** 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\(5\)\(b\)](#)

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

- C2** S. 104 applied (with modifications) by S.I. 1989/469, **reg. 27(2)** (as inserted by S.I. 1996/846, **reg. 11(b)**)
- C3** 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)**
- 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** Ss. 104-114 modified (6.4.1999) by **The Individual Savings Account Regulations 1998 (S.I. 1998/1870), regs. 1, 34(2)** (as amended (6.4.2008) by S.I. 2008/704, **regs. 1, 15(2)**)
- C6** S. 104(1) restricted (31.7.1998) by **Finance Act 1998 (c. 36), s. 124(8)(c)**
- C7** S. 104(4) applied (6.4.2007) by **Income Tax Act 2007 (c. 3), ss. 148(8)(b), 1034(1)** (with Sch. 2)

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

- (1) [<sup>F10</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—
- 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
  - 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>F11</sup>(2) Where the quantity of securities disposed of by any person exceeds the aggregate quantity of—

- the securities (if any) which are required by subsection (1) above to be identified with securities acquired on the day of the disposal,
- the securities (if any) which are required by [<sup>F12</sup>section] 106A(5) to be identified with securities acquired after the day of the disposal, and
- the securities (if any) which are required by any of the provisions of sections 104, <sup>F13</sup>... 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**

- F10** 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)**
- F11** 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)**
- F12** Word in s. 105(2)(b) substituted (with effect in accordance with s. 72(3) of the amending Act) by **Finance Act 2006 (c. 25), s. 72(2)(b)(i)**
- F13** Word in s. 105(2)(c) repealed (with effect in accordance with s. 72(3) of the amending Act) by **Finance Act 2006 (c. 25), s. 72(2)(b)(ii), Sch. 26 Pt. 3(9)**

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

- C3** 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**)
- 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** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), regs. 1, 34(2) (as amended (6.4.2008) by [S.I. 2008/704](#), **regs. 1, 15(2)**)

#### **[<sup>F14</sup>105A Shares acquired on same day: election for alternative treatment**

- (1) Subsection (2) below applies where an individual—
- (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—
    - [<sup>F15</sup>(i) the exercise of a qualifying option within the meaning given by section 527(4) of ITEPA 2003 (enterprise management incentives) in circumstances where section 530 or 531 of that Act (exercise of option to acquire shares) applies, or
    - (ii) the exercise of an option to which Chapter 7 or 8 of Part 7 of that Act (approved share option schemes) applies in circumstances where section 519(1) or 524(1) of that Act applies.]
- (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 [<sup>F16</sup>, relief under Part 5 of ITA 2007] 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 [<sup>F17</sup> or section 246 of ITA 2007] 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 [<sup>F18</sup> of the Taxes Act or subsection (3) of section 246 of ITA 2007] to be treated as disposed of after the remainder of the relevant shares falling within the paragraph in question, and

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- (ii) the approved-scheme shares to which subsection (6B) of [F19 section 299 of the Taxes Act or subsection (4) of section 246 of ITA 2007] 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
  - (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 [F20 or relief under Part 5 of ITA 2007] is attributable and which were transferred to an individual as mentioned in section 304 of [F21 the Taxes Act or section 245 of ITA 2007], and
  - (b) any shares to which deferral relief (within the meaning of Schedule 5B to this Act), but not relief under that Chapter [F22 or relief under that Part], 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).
- [ In this section references to Part 5 of ITA 2007 or any provision of that Part are to a F23 (9) Part or provision that applies only in relation to shares issued after 5 April 2007.]

#### Textual Amendments

- F14** 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\(1\)](#)
- F15** S. 105A(1)(b)(i)(ii) substituted (with effect in accordance with Sch. 5 para. 6(1) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 5 para. 3\(2\)](#)
- F16** Words in s. 105A(4) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 306\(2\)\(a\)](#) (with [Sch. 2](#))
- F17** Words in s. 105A(4)(b) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 306\(2\)\(b\)](#) (with [Sch. 2](#))
- F18** Words in s. 105A(4)(b)(i) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 306\(2\)\(c\)](#) (with [Sch. 2](#))
- F19** Words in s. 105A(4)(b)(ii) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 306\(2\)\(d\)](#) (with [Sch. 2](#))
- F20** Words in s. 105A(7)(a) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 306\(3\)\(a\)](#) (with [Sch. 2](#))

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- F21** Words in s. 105A(7)(a) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 306\(3\)\(b\)](#) (with [Sch. 2](#))
- F22** Words in s. 105A(7) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 306\(3\)\(c\)](#) (with [Sch. 2](#))
- F23** S. 105A(9) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 306\(4\)](#) (with [Sch. 2](#))

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

- C5** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), regs. 1, 34(2) (as amended (6.4.2008) by [S.I. 2008/704](#), regs. 1, **15(2)**)

**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.
- (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);



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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**

**F14** 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)**

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

**C5** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), regs. 1, 34(2) (as amended (6.4.2008) by [S.I. 2008/704](#), regs. 1, **15(2)**)

**<sup>F24</sup>106 Disposal of shares and securities by company within prescribed period of acquisition.**

**Textual Amendments**

**F24** S. 106 repealed (with effect in accordance with s. 72(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 72(1), **Sch. 26 Pt. 3(9)**

**[<sup>F25</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—
  - (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.

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- [ Subsection (5) above shall not require securities to be identified with securities which
- <sup>F26</sup>(5A) the person making the disposal acquires at a time when—
- (a) he is neither resident nor ordinarily resident in the United Kingdom, or
  - (b) he is resident or ordinarily resident in the United Kingdom but is Treaty non-resident.]
- (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

- F25** 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))
- F26** S. 106A(5A) inserted (with effect in accordance with s. 74(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [s. 74\(2\)](#)

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

- C3** 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](#))
- C5** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), [regs. 1, 34\(2\)](#) (as amended (6.4.2008) by [S.I. 2008/704](#), [regs. 1, 15\(2\)](#))
- C8** 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](#))
- C9** S. 106A modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), [regs. 1, 34\(3\)](#)



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## 107 Identification of securities etc: general rules.

[<sup>F27</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>F28</sup>section 104 holding], and
- (b) the securities disposed of would decrease the size of, or extinguish, the same [<sup>F28</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>F28</sup>section 104 holding] or constituting a [<sup>F28</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>F28</sup>section 104 holding] or, as the case may be, as constituting a [<sup>F28</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>F28</sup>section 104 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 [<sup>F28</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.

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### Textual Amendments

- F27** 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\(3\)](#)
- F28** 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)

- C3** 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](#))
- C5** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\), regs. 1, 34\(2\)](#) (as amended (6.4.2008) by S.I. 2008/704, [regs. 1, 15\(2\)](#))
- C10** S. 107 modified by S.I. 1989/469, [reg. 27A\(2A\)](#) (as inserted (6.4.1996) by S.I. 1996/846, [reg. 11\(b\)](#))
- C11** 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>F29</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 [<sup>F30</sup>Chapter 2 of Part 12 of ITA 2007 (accrued income profits)];
  - [<sup>F31</sup>(aa) qualifying corporate bonds;]
  - [<sup>F32</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>F33</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>F34</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>F33</sup>company] disposes of securities in one capacity, they shall not be identified with securities which [<sup>F34</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

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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 [F35 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 F36 ... 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

- F29** S. 108(A1) inserted (with effect in accordance with s. 124(7) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 124\(4\)](#)
- F30** Words in s. 108(1)(a) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), [s. 1034\(1\)](#), [Sch. 1 para. 307](#) (with [Sch. 2](#))
- F31** 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](#))

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- F32** 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)
- F33** 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\(5\)\(a\)](#)
- F34** 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\(5\)\(b\)](#)
- F35** 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\(5\)\(a\)](#)
- F36** Words in s. 108(8) repealed (with effect in accordance with s. 72(3) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 72\(2\)\(c\), Sch. 26 Pt. 3\(9\)](#)

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

- C3** 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](#))
- C5** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\), regs. 1, 34\(2\)](#) (as amended (6.4.2008) by [S.I. 2008/704, regs. 1, 15\(2\)](#))

**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—
- the holding shall continue to be regarded as a single asset for the purposes of this Act [<sup>F37</sup>(subject to express provision to the contrary)], 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

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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).

#### Textual Amendments

- F37** Words in s. 109(2)(a) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), **Sch. 12 para. 18(1)(2)**

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

- C3** 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**)
- C5** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), **regs. 1, 34(2)** (as amended (6.4.2008) by [S.I. 2008/704](#), **regs. 1, 15(2)**)

#### Marginal Citations

- M1** [1985 c. 54](#).

## 110 New holdings: indexation allowance.

- (1) [<sup>F38</sup>For the purposes of corporation tax this] section and section 114—
- apply in place of section 54 in relation to a disposal of a [<sup>F39</sup>section 104 holding] for the purpose of computing the indexation allowance;
  - have effect subject to [<sup>F40</sup>section 105].
- (2) On any disposal of a [<sup>F39</sup>section 104 holding], other than a disposal of the whole of it—
- 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
  - 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>F39</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>F39</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.
- (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

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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>F39</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>F41</sup>(6A) Where a disposal to a person acquiring or adding to a [<sup>F39</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>F39</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

- F38** 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\(1\)](#)
- F39** 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\(5\)\(b\)](#)
- F40** Words in s. 110(1)(b) substituted (with effect in accordance with s. 72(3) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 72\(2\)\(d\)](#)
- F41** 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)

- C3** 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](#))
- C5** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), regs. 1, 34(2) (as amended (6.4.2008) by [S.I. 2008/704, regs. 1, 15\(2\)](#))

#### Marginal Citations

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

### [<sup>F42</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—

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- (a) 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
  - (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

**F42** 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)

**C3** 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](#))

**C5** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), [regs. 1, 34\(2\)](#) (as amended (6.4.2008) by [S.I. 2008/704](#), [regs. 1, 15\(2\)](#))

### <sup>F43</sup> 111 Indexation: building society etc. shares.

#### Textual Amendments

**F43** 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.

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- (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.

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

- C3** 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**)
- C5** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), regs. 1, 34(2) (as amended (6.4.2008) by [S.I. 2008/704](#), **regs. 1, 15(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)**

- C3** 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**)
- C5** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), regs. 1, 34(2) (as amended (6.4.2008) by [S.I. 2008/704](#), **regs. 1, 15(2)**)

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## 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 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)

- C3** 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](#))
- C5** Ss. 104-114 modified (6.4.1999) by [The Individual Savings Account Regulations 1998 \(S.I. 1998/1870\)](#), regs. 1, 34(2) (as amended (6.4.2008) by [S.I. 2008/704](#), [regs. 1, 15\(2\)](#))

**Status:**

Point in time view as at 08/07/2008.

**Changes to legislation:**

Taxation of Chargeable Gains Act 1992, Cross Heading: Share pooling, identification of securities, and indexation is up to date with all changes known to be in force on or before 26 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.