



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VI

COMPANIES, OIL, INSURANCE ETC.

CHAPTER I

COMPANIES

Transactions within groups

171 Transfers within a group: general provisions.

[^{F1}(1) Where—

- (a) a company (“company A”) disposes of an asset to another company (“company B”) at a time when both companies are members of the same group, and
- (b) the conditions in subsection (1A) below are met,

company A and company B are treated for the purposes of corporation tax on chargeable gains as if the asset were acquired by company B for a consideration of such amount as would secure that neither a gain nor a loss would accrue to company A on the disposal.

(1A) The conditions referred to in subsection (1)(b) above are—

- (a) that company A is resident in the United Kingdom at the time of the disposal, or the asset is a chargeable asset in relation to that company immediately before that time, and
- (b) that company B is resident in the United Kingdom at the time of the disposal, or the asset is a chargeable asset in relation to that company immediately after that time.

Status: Point in time view as at 05/10/2004.

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For this purpose an asset is a “chargeable asset” in relation to a company at any time if, were the asset to be disposed of by the company at that time, any gain accruing to the company would be a chargeable gain and would by virtue of section [F²10B] form part of its chargeable profits for corporation tax purposes.]

- (2) Subsection (1) above shall not apply where the disposal is—
- (a) a disposal of a debt due from [F³company B] effected by satisfying the debt or part of it; or
 - (b) a disposal of redeemable shares in a company on the occasion of their redemption; or
 - (c) a disposal by or to an investment trust; or
 - [F⁴(cc) a disposal by or to a venture capital trust; or]
 - [F⁵(cd) a disposal by or to a qualifying friendly society; or]
 - (d) a disposal to a dual resident investing company; F⁶...
 - F⁶(e)

and the reference in subsection (1) above to [F⁷company A] disposing of an asset shall not apply to anything which under section 122 is to be treated as a disposal of an interest in shares in a company in consideration for a capital distribution (as defined in that section) from that company, whether or not involving a reduction of capital.

- (3) Subsection (1) above shall not apply to a transaction treated [F⁸by section 127 as it applies by virtue of section 135] as not involving a disposal by [F⁹company A].
- (4) For the purposes of subsection (1) above, so far as the consideration for the disposal consists of money or money’s worth by way of compensation for any kind of damage or injury to assets, or for the destruction or dissipation of assets or for anything which depreciates or might depreciate an asset, the disposal shall be treated as being to the person who, whether as an insurer or otherwise, ultimately bears the burden of furnishing that consideration.
- [F¹⁰(5) In subsection (2)(cd) above “qualifying friendly society” means a company which is a qualifying society for the purposes of section 461B of the Taxes Act (incorporated friendly societies entitled to exemption from income tax and corporation tax on certain profits).]
- [F¹¹(6) Subsection (1) above applies notwithstanding any provision in this Act fixing the amount of the consideration deemed to be received on a disposal or given on an acquisition.

But where it is assumed for any purpose that a member of a group of companies has sold or acquired an asset, it shall be assumed also that it was not a sale or acquisition to which this section applies.]

Textual Amendments

- F1** S. 171(1)(1A) substituted for s. 171(1) (with effect in accordance with Sch. 29 para. 2(6) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 2\(2\)](#) (with [Sch. 29 para. 46\(5\)](#))
- F2** Word in s. 171(1A) substituted (with effect in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 2\(3\)](#)
- F3** Words in s. 171(2)(a) substituted (with effect in accordance with Sch. 29 para. 2(6) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), Sch. 29 para. 2(3)(a) (with [Sch. 29 para. 46\(5\)](#))

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- F4** S. 171(2)(cc) inserted (with application in accordance with s. 135(4) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 135\(1\)](#)
- F5** S. 171(2)(cd) inserted (with application in accordance with s. 136(5) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 136\(2\)](#)
- F6** S. 171(2)(e) and preceding word repealed (with effect in accordance with s. 251(1)(a)(7) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 251\(7\)\(b\), Sch. 26 Pt. VIII\(1\)](#)
- F7** Words in s. 171(2) substituted (with effect in accordance with [Sch. 29 para. 2\(6\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 29 para. 2\(3\)\(b\)](#) (with [Sch. 29 para. 46\(5\)](#))
- F8** Words in s. 171(3) substituted (with effect in accordance with [Sch. 9 paras. 7, 8](#) of the amending Act) by [Finance Act 2002 \(c. 23\), Sch. 9 para. 5\(10\)](#)
- F9** Words in s. 171(3) substituted (with effect in accordance with [Sch. 29 para. 2\(6\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 29 para. 2\(4\)](#) (with [Sch. 29 para. 46\(5\)](#))
- F10** S. 171(5) inserted (with application in accordance with s. 136(5) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 136\(3\)](#)
- F11** S. 171(6) added (with effect in accordance with [Sch. 29 para. 2\(6\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 29 para. 2\(5\)](#) (with [Sch. 29 para. 46\(5\)](#))

Modifications etc. (not altering text)

- C1** S. 171 excluded (27.7.1993 with application as mentioned in s. 165(1)) by [1993 c. 34, s. 169, Sch. 17 para. 7\(2\)\(b\)](#)
- C2** Ss. 171, 172 restricted (with effect in accordance with s. 131(4) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 131\(1\)\(2\)\(a\)](#)
- C3** Ss. 170-192 restricted (27.7.1999) by [Commonwealth Development Corporation Act 1999 \(c. 20\), Sch. 3 paras. 1, 4\(1\)](#)
- C4** Ss. 170-181 restricted (12.1.2000) by [Greater London Authority Act 1999 \(c. 29\), ss. 419\(3\), 425\(2\); S.I. 1999/3434, art. 2](#)
- C5** S. 171 applied (with modifications) (24.7.2002) by [Finance Act 2002 \(c. 23\), Sch. 29 para. 86\(6\)](#)
- C6** Ss. 170-181 modified (5.10.2004) by [Energy Act 2004 \(c. 20\), s. 198\(2\), Sch. 9 para. 35\(a\)](#) (with s. 38(2)); [S.I. 2004/2575, art. 2\(1\), Sch. 1](#)
- C7** S. 171(1) excluded (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\), s. 252\(3\), Sch. 24 para. 2\(3\)](#)
- C8** S. 171(1) excluded (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\), s. 252\(3\), Sch. 24 para. 7\(3\)](#)
- C9** S. 171(1) excluded (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\), s. 252\(3\), Sch. 24 para. 25\(3\)](#)
- C10** S. 171(1) restricted (8.11.1995) by [Atomic Energy Authority Act 1995 \(c. 37\), Sch. 3 para. 4\(1\)](#)
- C11** S. 171(1) excluded (24.7.1996) by [Broadcasting Act 1996 \(c. 55\), s. 149\(1\), Sch. 7 para. 2\(2\)](#) (with [Sch. 7 para. 9\(1\)](#))
- C12** S. 171(1) excluded (1.2.2001) by [Transport Act 2000 \(c. 38\), s. 275\(1\), Sch. 7 paras. 2\(4\), 20\(5\); S.I. 2001/57, art. 3\(1\)](#)
- C13** S. 171(2)(cc) excluded (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Venture Capital Trust \(Winding up and Mergers\) \(Tax\) Regulations 2004 \(S.I. 2004/2199\), regs. 1\(1\), 12\(2\)](#)

[^{F12}171A] Notional transfers within a group.

- (1) This section applies where—
 - (a) two companies (“A” and “B”) are members of a group of companies; and
 - (b) A disposes of an asset to a person who is not a member of the group (“C”).

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- (2) Subject to subsections (3) and (4) below, A and B may, by notice in writing to an officer of the Board, jointly elect that, for the purposes of corporation tax on chargeable gains—
- (a) the asset, or any part of it, shall be deemed to have been transferred by A to B immediately before the disposal to C;
 - (b) section 171(1) shall be deemed to have applied to that transfer; ^{F13} ...
 - (c) the disposal of the asset or part to C shall be deemed to have been made by B^{F14}; and
 - (d) any incidental costs to A of making the actual disposal to C shall be deemed to be incidental costs to B of making the deemed disposal to C].
- (3) No election may be made under subsection (2) above unless section 171(1) would have applied to an actual transfer of the asset or part from A to B.

[Section 440(3) of the Taxes Act does not cause subsection (3) above to prevent the ^{F15}(3A) making of an election in a case where B is an insurance company; and in such a case the asset or part deemed to be transferred to B by A, and by B to C, is to be treated for the purposes of subsections (2)(c) and (3) above as not being part of B’s long-term insurance fund.

“Insurance company” and “long-term insurance fund” have the same meaning as in Chapter 1 of Part 12 of the Taxes Act (see section 431(2) of that Act).]

- (4) An election under [^{F16}subsection (2) above] must be made [^{F17}on or before] the second anniversary of the end of the accounting period of A in which the disposal to C was made.
- (5) Any payment by A to B, or by B to A, in pursuance of an agreement between them in connection with the election—
- (a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and
 - (b) shall not for any purposes of the Corporation Tax Acts be regarded as a distribution or a charge on income,
- provided it does not exceed the amount of the chargeable gain or allowable loss that is treated, as a result of the disposal, as accruing to B.]

Textual Amendments

- F12** S. 171A inserted (with effect in accordance with s. 101(2) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [s. 101\(1\)](#)
- F13** Word in s. 171A(2) omitted (11.5.2001) by virtue of [Finance Act 2001 \(c. 9\)](#), [s. 77\(2\)](#) (with [Sch. 3](#))
- F14** S. 171A(2)(d) and preceding word added (11.5.2001) by [Finance Act 2001 \(c. 9\)](#), [s. 77\(2\)](#) (with [Sch. 3](#))
- F15** S. 171A(3A) inserted (with effect in accordance with Sch. 33 para. 17(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 17\(2\)](#)
- F16** Word in s. 171A(4) substituted (with effect in accordance with Sch. 33 para. 17(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 17\(3\)](#)
- F17** Words in s. 171A(4) substituted (11.5.2001) by [Finance Act 2001 \(c. 9\)](#), [s. 77\(3\)](#) (with [Sch. 3](#))

Modifications etc. (not altering text)

- C6** Ss. 170-181 modified (5.10.2004) by [Energy Act 2004 \(c. 20\)](#), s. 198(2), [Sch. 9 para. 35\(a\)](#) (with s. 38(2)); [S.I. 2004/2575](#), art. 2(1), [Sch. 1](#)

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F18 172 Transfer of United Kingdom branch or agency.

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Textual Amendments

F18 S. 172 repealed (with effect in accordance with Sch. 29 para. 3(2), Sch. 40 Pt. 2(12) Note 5 of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 3\(1\)](#), [Sch. 40 Pt. II\(12\)](#) (with [Sch. 29 para. 46\(5\)](#))

[F19 173 Transfers within a group: trading stock.

(1) Where—

- (a) a company (“company A”) acquires an asset as trading stock of a trade to which this section applies,
- (b) the acquisition is from a company (“company B”) that at the time of the acquisition is a member of the same group of companies, and
- (c) the asset did not form part of the trading stock of any such trade carried on by company B,

company A is treated for the purposes of section 161 as having acquired the asset otherwise than as trading stock and immediately appropriated it for the purposes of the trade as trading stock.

(2) Where—

- (a) a company (“company C”) disposes of an asset forming part of the trading stock of a trade to which this section applies carried on by that company,
- (b) the disposal is to another company (“company D”) that at the time of the disposal is a member of the same group of companies, and
- (c) the asset is acquired by company D otherwise than as trading stock of any such trade carried on by it,

company C is treated for the purposes of section 161 as having appropriated the asset immediately before the disposal for some purpose other than the purpose of use as trading stock.

(3) The trades to which this section applies are—

- (a) any trade carried on by a company resident in the United Kingdom, and
- (b) any trade carried on in the United Kingdom through a [F20permanent establishment] by a company not so resident.]

Textual Amendments

F19 S. 173 substituted (with effect in accordance with Sch. 29 para. 11(2) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 11\(1\)](#) (with [Sch. 29 para. 46\(5\)](#))

F20 Words in s. 173(3)(b) substituted (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 153\(1\)\(b\)](#)

Modifications etc. (not altering text)

C3 Ss. 170-192 restricted (27.7.1999) by [Commonwealth Development Corporation Act 1999 \(c. 20\)](#), [Sch. 3 paras. 1, 4\(1\)](#)

C4 Ss. 170-181 restricted (12.1.2000) by [Greater London Authority Act 1999 \(c. 29\)](#), [ss. 419\(3\), 425\(2\)](#); [S.I. 1999/3434](#), art. 2

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- C6** Ss. 170-181 modified (5.10.2004) by [Energy Act 2004 \(c. 20\)](#), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

174 Disposal or acquisition outside a group.

^{F21}(1)

^{F21}(2)

^{F21}(3)

- (4) Schedule 2 shall apply in relation to a disposal of an asset by a company which is or has been a member of a group of companies, and which acquired the asset from another member of the group [^{F22}in a transfer to which section 171(1) applied], as if all members of the group for the time being were the same person, and as if the acquisition or provision of the asset by the group, so taken as a single person, had been the acquisition or provision of it by the member disposing of it.

^{F23}(5)

Textual Amendments

- F21** S. 174(1)-(3) repealed (with effect in accordance with Sch. 40 Pt. II(12) Note 6 of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 40 Pt. II(12)** (with [Sch. 29 para. 46\(5\)](#))
- F22** Words in s. 174(4) substituted (with effect in accordance with Sch. 29 para. 13(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 29 para. 13(2)** (with [Sch. 29 paras. 13\(5\), 46\(5\)](#))
- F23** S. 174(5) repealed (with effect in accordance with Sch. 29 para. 13(4), Sch. 40 Pt. II(12) Note 6 of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 29 para. 13(3)**, Sch. 40 Pt. II(12) (with [Sch. 29 paras. 13\(5\), 46\(5\)](#))

Modifications etc. (not altering text)

- C3** Ss. 170-192 restricted (27.7.1999) by [Commonwealth Development Corporation Act 1999 \(c. 20\)](#), [Sch. 3 paras. 1, 4\(1\)](#)
- C4** Ss. 170-181 restricted (12.1.2000) by [Greater London Authority Act 1999 \(c. 29\)](#), **ss. 419(3), 425(2)**; S.I. 1999/3434, art. 2
- C6** Ss. 170-181 modified (5.10.2004) by [Energy Act 2004 \(c. 20\)](#), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1
- C14** S. 174 modified (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), **Sch. 4 para. 21(2)** (with [Sch. 4 para. 14](#)); S.I. 1994/2189, art. 2, Sch.

175 Replacement of business assets by members of a group.

- (1) Subject to subsection (2) below, for the purposes of sections 152 to 158 all the trades [^{F24}to which this section applies] carried on by members of a group of companies shall, for the purposes of corporation tax on chargeable gains, be treated as a single trade ^{F25}...

[^{F26}(1A) The trades to which this section applies are—

- (a) any trade carried on by a company that is resident in the United Kingdom, and
- (b) any trade carried on in the United Kingdom through a [^{F27}permanent establishment] by a company not so resident.]

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- (2) Subsection (1) above does not apply where so much of the consideration for the disposal of the old assets as is applied in acquiring the new assets or the interest in them is so applied by a member of the group which is a dual resident investing company^{F28}... and in this subsection “the old assets” and “the new assets” have the same meanings as in section 152.

[^{F29}(2A) Section 152 [^{F30} or 153] shall apply where—

- (a) the disposal is by a company which, at the time of the disposal, is a member of a group of companies,
- (b) the acquisition is by another company which, at the time of the acquisition, is a member of the same group, and

[the conditions in subsection (2AA) below are met, and]

^{F31}(ba)

- (c) the claim is made by both companies,
- as if both companies were the same person.

[The conditions referred to in subsection (2A)(ba) above are—

- ^{F32}(2AA)
- (a) that the company making the disposal is resident in the United Kingdom at the time of the disposal, or the assets are chargeable assets in relation to that company immediately before that time, and
 - (b) that the acquiring company is resident in the United Kingdom at the time of the acquisition, or the assets are chargeable assets in relation to that company immediately after that time.

For this purpose an asset is a “chargeable asset” in relation to a company at any time if, were the asset to be disposed of by the company at that time, any gain accruing to the company would be a chargeable gain and would by virtue of section [^{F33}10B] form part of its chargeable profits for corporation tax purposes.]

(2B) Section 152 [^{F34} or 153] shall apply where a company which is a member of a group of companies but is not carrying on a trade—

- (a) disposes of assets (or an interest in assets) used, and used only, for the purposes of the trade which (in accordance with subsection (1) above) is treated as carried on by the members of the group which carry on a trade, or
- (b) acquires assets (or an interest in assets) taken into use, and used only, for those purposes,

as if the first company were carrying on that trade.

(2C) [^{F35}Neither section 152 nor section 153 shall] apply if the acquisition of, or of the interest in, the new assets—

- (a) is made by a company which is a member of a group of companies, and
- (b) is one to which any of the enactments specified in section 35(3)(d) applies.]

[^{F36}(3) Section 154(2) applies where the company making the claim is a member of a group of companies—

- (a) as if all members of the group for the time being carrying on a trade to which this section applies were the same person, and
- (b) in accordance with subsection (1) above, as if all those trades were the same trade;

so that the gain accrues to the member of the group holding the asset concerned on the occurrence of the event mentioned in section 154(2).]

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- (4) Subsection (2) above shall apply where the acquisition took place before 20th March 1990 and the disposal takes place within the period of 12 months beginning with the date of the acquisition or such longer period as the Board may by notice allow with the omission of the words from “or a company” to “the acquisition”.

Textual Amendments

- F24** Words in s. 175(1) inserted (with effect in accordance with Sch. 29 para. 10(7) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 29 para. 10(2)** (with [Sch. 29 paras. 10\(8\)](#), [46\(5\)](#))
- F25** Words in s. 175(1) repealed (with effect in accordance with Sch. 29 Pt. VIII(4) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 29 Pt. VIII(4)**
- F26** S. 175(1A) inserted (with effect in accordance with Sch. 29 para. 10(7) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 29 para. 10(3)** (with [Sch. 29 paras. 10\(8\)](#), [46\(5\)](#))
- F27** Words in s. 175(1A)(b) substituted (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **s. 153(1)(b)**
- F28** Words in s. 175(2) repealed (with effect in accordance with s. 251(1)(a)(8) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 251(8), **Sch. 26 Pt. VIII(1)**
- F29** S. 175(2A)-(2C) inserted (retrospectively as respects s. 175(2A), with application in accordance with s. 48(5) of the amending Act as respects s. 175(2B)(2C)) by [Finance Act 1995 \(c. 4\)](#), **s. 48(1)(3)** (with s. [48\(4\)\(5\)](#))
- F30** Words in s. 175(2A) inserted (with effect in accordance with s. 121(8) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 141(3)(a)**
- F31** S. 175(2A)(ba) inserted (with effect in accordance with Sch. 29 para. 10(7) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 29 para. 10(4)** (with [Sch. 29 paras. 10\(8\)](#), [46\(5\)](#))
- F32** S. 175(2AA) inserted (with effect in accordance with Sch. 29 para. 10(7) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 29 para. 10(5)** (with [Sch. 29 paras. 10\(8\)](#), [46\(5\)](#))
- F33** Word in s. 175(2AA) substituted (with effect in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 27 para. 2(3)**
- F34** Words in s. 175(2B) inserted (with effect in accordance with s. 121(8) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 141(3)(a)**
- F35** Words in s. 175(2C) substituted (with effect in accordance with s. 121(8) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **s. 141(3)(b)**
- F36** S. 175(3) substituted (with effect in accordance with Sch. 29 para. 10(7) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 29 para. 10(6)** (with [Sch. 29 paras. 10\(8\)](#), [46\(5\)](#))

Modifications etc. (not altering text)

- C3** Ss. 170-192 restricted (27.7.1999) by [Commonwealth Development Corporation Act 1999 \(c. 20\)](#), [Sch. 3 paras. 1](#), **4(1)**
- C4** Ss. 170-181 restricted (12.1.2000) by [Greater London Authority Act 1999 \(c. 29\)](#), **ss. 419(3)**, [425\(2\)](#); [S.I. 1999/3434](#), art. 2
- C6** Ss. 170-181 modified (5.10.2004) by [Energy Act 2004 \(c. 20\)](#), s. 198(2), **Sch. 9 para. 35(a)** (with s. [38\(2\)](#)); [S.I. 2004/2575](#), art. 2(1), [Sch. 1](#)
- C15** S. 175(2A)(c) restricted (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), **s. 48(4)**

Status:

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