



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VII

OTHER PROPERTY, BUSINESSES, INVESTMENTS ETC.

Debts

251 General provisions.

- (1) Where a person incurs a debt to another, whether in sterling or in some other currency, no chargeable gain shall accrue to that (that is the original) creditor or his personal representative or legatee on a disposal of the debt, except in the case of the debt on a security (as defined in section 132).
- (2) Subject to the provisions of sections 132 and 135 and subject to subsection (1) above, the satisfaction of a debt or part of it (including a debt on a security as defined in section 132) shall be treated as a disposal of the debt or of that part by the creditor made at the time when the debt or that part is satisfied.
- (3) Where property is acquired by a creditor in satisfaction of his debt or part of it, then subject to the provisions of sections 132 and 135 the property shall not be treated as disposed of by the debtor or acquired by the creditor for a consideration greater than its market value at the time of the creditor's acquisition of it; but if under subsection (1) above (and in a case not falling within either section 132 or 135) no chargeable gain is to accrue on a disposal of the debt by the creditor (that is the original creditor), and a chargeable gain accrues to him on a disposal by him of the property, the amount of the chargeable gain shall (where necessary) be reduced so as not to exceed the chargeable gain which would have accrued if he had acquired the property for a consideration equal to the amount of the debt or that part of it.
- (4) A loss accruing on the disposal of a debt acquired by the person making the disposal from the original creditor or his personal representative or legatee at a time when the creditor or his personal representative or legatee is a person connected with the person making the disposal, and so acquired either directly or by one or more purchases

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through persons all of whom are connected with the person making the disposal, shall not be an allowable loss.

- (5) Where the original creditor is a trustee and the debt, when created, is settled property, subsections (1) and (4) above shall apply as if for the references to the original creditor's personal representative or legatee there were substituted references to any person becoming absolutely entitled, as against the trustee, to the debt on its ceasing to be settled property, and to that person's personal representative or legatee.

252 Foreign currency bank accounts.

- (1) Subject to subsection (2) below, section 251(1) shall not apply to a debt owed by a bank which is not in sterling and which is represented by a sum standing to the credit of a person in an account in the bank.
- (2) Subsection (1) above shall not apply to a sum in an individual's bank account representing currency acquired by the holder for the personal expenditure outside the United Kingdom of himself or his family or dependants (including expenditure on the provision or maintenance of any residence outside the United Kingdom).

253 Relief for loans to traders.

- (1) In this section "a qualifying loan" means a loan in the case of which—
- (a) the money lent is used by the borrower wholly for the purposes of a trade carried on by him, not being a trade which consists of or includes the lending of money, and
 - (b) the borrower is resident in the United Kingdom, and
 - (c) the borrower's debt is not a debt on a security as defined in section 132;
- and for the purposes of paragraph (a) above money used by the borrower for setting up a trade which is subsequently carried on by him shall be treated as used for the purposes of that trade.
- (2) In subsection (1) above references to a trade include references to a profession or vocation; and where money lent to a company is lent by it to another company in the same group, being a trading company, that subsection shall apply to the money lent to the first-mentioned company as if it had used it for any purpose for which it is used by the other company while a member of the group.
- (3) If, on a claim by a person who has made a qualifying loan, the inspector is satisfied that—
- (a) any outstanding amount of the principal of the loan has become irrecoverable, and
 - (b) the claimant has not assigned his right to recover that amount, and
 - (c) the claimant and the borrower were not each other's spouses, or companies in the same group, when the loan was made or at any subsequent time,
- this Act shall have effect as if an allowable loss equal to that amount had accrued to the claimant when the claim was made.
- (4) If, on a claim by a person who has guaranteed the repayment of a loan which is, or but for subsection (1)(c) above would be, a qualifying loan, the inspector is satisfied that—
- (a) any outstanding amount of, or of interest in respect of, the principal of the loan has become irrecoverable from the borrower, and

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- (b) the claimant has made a payment under the guarantee (whether to the lender or a co-guarantor) in respect of that amount, and
- (c) the claimant has not assigned any right to recover that amount which has accrued to him (whether by operation of law or otherwise) in consequence of his having made the payment, and
- (d) the lender and the borrower were not each other's spouses, or companies in the same group, when the loan was made or at any subsequent time and the claimant and the borrower were not each other's spouses, and the claimant and the lender were not companies in the same group, when the guarantee was given or at any subsequent time,

this Act shall have effect as if an allowable loss had accrued to the claimant when the payment was made; and the loss shall be equal to the payment made by him in respect of the amount mentioned in paragraph (a) above less any contribution payable to him by any co-guarantor in respect of the payment so made.

- (5) Where an allowable loss has been treated under subsection (3) or (4) above as accruing to any person and the whole or any part of the outstanding amount mentioned in subsection (3)(a) or, as the case may be, subsection (4)(a) is at any time recovered by him, this Act shall have effect as if there had accrued to him at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

- (6) Where—

- (a) an allowable loss has been treated under subsection (4) above as accruing to any person, and
- (b) the whole or any part of the amount of the payment mentioned in subsection (4)(b) is at any time recovered by him,

this Act shall have effect as if there had accrued to him at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

- (7) Where—

- (a) an allowable loss has been treated under subsection (3) above as accruing to a company ("the first company"), and
- (b) the whole or any part of the outstanding amount mentioned in subsection (3)(a) is at any time recovered by a company ("the second company") in the same group as the first company,

this Act shall have effect as if there had accrued to the second company at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

- (8) Where—

- (a) an allowable loss has been treated under subsection (4) above as accruing to a company ("the first company"), and
- (b) the whole or any part of the outstanding amount mentioned in subsection (4)(a), or the whole or any part of the amount of the payment mentioned in subsection (4)(b), is at any time recovered by a company ("the second company") in the same group as the first company,

this Act shall have effect as if there had accrued to the second company at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

- (9) For the purposes of subsections (5) to (8) above, a person shall be treated as recovering an amount if he (or any other person by his direction) receives any money or money's

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- worth in satisfaction of his right to recover that amount or in consideration of his assignment of the right to recover it; and where a person assigns such a right otherwise than by way of a bargain made at arm's length he shall be treated as receiving money or money's worth equal to the market value of the right at the time of the assignment.
- (10) No amount shall be treated under this section as giving rise to an allowable loss or chargeable gain in the case of any person if it falls to be taken into account in computing his income for the purposes of income tax or corporation tax.
- (11) Where an allowable loss has been treated as accruing to a person under subsection (4) above by virtue of a payment made by him at any time under a guarantee—
- (a) no chargeable gain shall accrue to him otherwise than under subsection (5) above, and
 - (b) no allowable loss shall accrue to him under this Act,
- on his disposal of any rights that have accrued to him (whether by operation of law or otherwise) in consequence of his having made any payment under the guarantee at or after that time.
- (12) References in this section to an amount having become irrecoverable do not include references to cases where the amount has become irrecoverable in consequence of the terms of the loan, of any arrangements of which the loan forms part, or of any act or omission by the lender or, in a case within subsection (4) above, the guarantor.
- (13) For the purposes of subsections (7) and (8) above, 2 companies are in the same group if they were in the same group when the loan was made or have been in the same group at any subsequent time.
- (14) In this section—
- (a) “spouses” means spouses who are living together (construed in accordance with section 288(3)),
 - (b) “trading company” has the meaning given by paragraph 1 of Schedule 6, and
 - (c) “group” shall be construed in accordance with section 170.
- (15) Subsection (3) above does not apply where the loan was made before 12th April 1978 and subsection (4) above does not apply where the guarantee was given before that date.

254 Relief for debts on qualifying corporate bonds.

- (1) In this section “a qualifying loan” means a loan in the case of which—
- (a) the borrower's debt is a debt on a security as defined in section 132,
 - (b) but for that fact, the loan would be a qualifying loan within the meaning of section 253, and
 - (c) the security is a qualifying corporate bond.
- (2) If, on a claim by a person who has made a qualifying loan, the inspector is satisfied that one of the following 3 conditions is fulfilled, this Act shall have effect as if an allowable loss equal to the allowable amount had accrued to the claimant when the claim was made.
- (3) The first condition is that—
- (a) the value of the security has become negligible,

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- (b) the claimant has not assigned his right to recover any outstanding amount of the principal of the loan, and
 - (c) the claimant and the borrower are not companies which have been in the same group at any time after the loan was made.
- (4) The second condition is that—
 - (a) the security’s redemption date has passed,
 - (b) all the outstanding amount of the principal of the loan was irrecoverable (taking the facts existing on that date) or proved to be irrecoverable (taking the facts existing on a later date), and
 - (c) subsection (3)(b) and (c) above are fulfilled.
- (5) The third condition is that—
 - (a) the security’s redemption date has passed,
 - (b) part of the outstanding amount of the principal of the loan was irrecoverable (taking the facts existing on that date) or proved to be irrecoverable (taking the facts existing on a later date), and
 - (c) subsection (3)(b) and (c) above are fulfilled.
- (6) In a case where the inspector is satisfied that the first or second condition is fulfilled, the allowable amount is the lesser of—
 - (a) the outstanding amount of the principal of the loan;
 - (b) the amount of the security’s acquisition cost;and if any amount of the principal of the loan has been recovered the amount of the security’s acquisition cost shall for this purpose be treated as reduced (but not beyond nil) by the amount recovered.
- (7) In a case where the inspector is satisfied that the third condition is fulfilled, then—
 - (a) if the security’s acquisition cost exceeds the relevant amount, the allowable amount is an amount equal to the excess;
 - (b) if the security’s acquisition cost is equal to or less than the relevant amount, the allowable amount is nil.
- (8) For the purposes of subsection (7) above the relevant amount is the aggregate of—
 - (a) the amount (if any) of the principal of the loan which has been recovered, and
 - (b) the amount (if any) of the principal of the loan which has not been recovered but which in the inspector’s opinion is recoverable.
- (9) Where an allowable loss has been treated under subsection (2) above as accruing to any person and the whole or any part of the relevant outstanding amount is at any time recovered by him, this Act shall have effect as if there had accrued to him at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.
- (10) Where—
 - (a) an allowable loss has been treated under subsection (2) above as accruing to a company (“the first company”), and
 - (b) the whole or any part of the relevant outstanding amount is at any time recovered by a company (“the second company”) in the same group as the first company,

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this Act shall have effect as if there had accrued to the second company at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

- (11) In subsections (9) and (10) above “the relevant outstanding amount” means—
- (a) the amount of the principal of the loan outstanding when the claim was allowed, in a case where the inspector was satisfied that the first or second condition was fulfilled;
 - (b) the amount of the part (or the greater or greatest part) arrived at by the inspector under subsection (5)(b) above, in a case where he was satisfied that the third condition was fulfilled.
- (12) This section does not apply if the security was issued before 15th March 1989 and was not held on 15th March 1989 by the person who made the loan.

Modifications etc. (not altering text)

C1 S. 254(6) modified (27.7.1993 with application as mentioned in s. 165(1)) by [1993 c. 34, s. 169, Sch. 17 para. 6\(4\)](#)

255 Provisions supplementary to section 254.

- (1) For the purposes of section 254 a security’s redemption date is the latest date on which, under the terms on which the security was issued, the company or body which issued it can be required to redeem it.
- (2) For the purposes of section 254 a security’s acquisition cost is the amount or value of the consideration in money or money’s worth given, by or on behalf of the person who made the loan, wholly and exclusively for the acquisition of the security, together with the incidental costs to him of the acquisition.
- (3) For the purposes of section 254(10) 2 companies are in the same group if they have been in the same group at any time after the loan was made.
- (4) Section 253(9) shall apply for the purposes of section 254(6) and (8) to (10) as it applies for the purposes of section 253(5).
- (5) Section 253(10), (12) and (14)(c) shall apply for the purposes of section 254 and of this section as they apply for the purposes of section 253, ignoring for this purpose the words following “lender” in section 253(12).

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