

Status: Point in time view as at 19/07/2011.

Changes to legislation: Taxation of Chargeable Gains Act 1992, SCHEDULE 7A is up to date with all changes known to be in force on or before 04 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. (See end of Document for details)

SCHEDULES

[^{F1} SCHEDULE 7A

Section 177A.

RESTRICTION ON SET-OFF OF PRE-ENTRY LOSSES

Textual Amendments

- F1** Sch. 7A inserted (27.7.1993 with effect as mentioned in s. 88(3) of the amending Act) by 1993 c. 34, c. 88(2), Sch. 8

Application and construction of Schedule

- 1 (1) This Schedule shall have effect, in the case of a company which [^{F2}becomes] a member of a group of companies (“the relevant group”), in relation to any pre-entry losses of that company[^{F3}, but this Schedule shall have no effect in any case where section 184A (restrictions on buying losses: tax avoidance schemes) has effect in relation to those losses].
- [^{F4}(2) In this Schedule “pre-entry loss”, in relation to any company, means any allowable loss that accrued to that company at a time before it became a member of the relevant group.]
- ^{F5}(3)
- ^{F5}(3A)
- ^{F5}(4)
- ^{F5}(5)
- (6) [^{F6}If]—
- (a) the principal company of a group of companies (“the first group”) has at any time become a member of another group (“the second group”) so that the two groups are treated as the same by virtue of subsection (10) [^{F7}or (10A)] of section 170, and
- (b) the second group, together in pursuance of that subsection with the first group, is the relevant group,
- then, except where sub-paragraph (7) below applies, the members of the first group shall be treated for the purposes of this Schedule as having become members of the relevant group at that time, and not by virtue of that subsection at the times when they became members of the first group.
- (7) This sub-paragraph applies where—
- (a) the persons who immediately before the time when the principal company of the first group became a member of the second group owned the shares comprised in the issued share capital of the principal company of the first

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group are the same as the persons who, immediately after that time, owned the shares comprised in the issued share capital of the principal company of the relevant group; and

- (b) the company which is the principal company of the relevant group immediately after that time—
 - (i) was not the principal company of any group immediately before that time; and
 - (ii) immediately after that time had assets consisting entirely, or almost entirely, of shares comprised in the issued share capital of the principal company of the first group.

^{F8}(8)

- (9) In determining for the purposes of this Schedule whether any allowable loss accruing to a company under section 116(10)(b) is a loss that accrued before the company became a member of the relevant group, any loss so accruing shall be deemed to have accrued at the time of the relevant transaction within the meaning of section 116(2).
- (10) In determining for the purposes of this Schedule whether any allowable loss accruing to a company on a disposal under section 212 is a loss that accrued before the company became a member of the relevant group, the provisions of section 213 shall be disregarded.

Textual Amendments

- F2** Word in Sch. 7A para. 1(1) substituted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 3(2)**
- F3** Words in Sch. 7A para. 1(1) inserted (with effect in accordance with s. 70(6)-(8) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **s. 70(3)** (with s. 70(10)-(11))
- F4** Sch. 7A para. 1(2) substituted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 3(3)**
- F5** Sch. 7A para. 1(3)(3A)(4)(5) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 3(4)**
- F6** Word in Sch. 7A para. 1(6) substituted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 3(5)**
- F7** Words in Sch. 7A para. 1(6)(a) inserted (with effect in accordance with s. 65(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **s. 65(4)**
- F8** Sch. 7A para. 1(8) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 3(6)**

Pre-entry proportion of losses on pre-entry assets

^{F9}2

Textual Amendments

- F9** Sch. 7A paras. 2-5 omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 4**

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Disposals of pooled assets

F93

Textual Amendments

- F9** Sch. 7A paras. 2-5 omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 4](#)

Rule to prevent pre-entry losses on pooled assets being treated as post-entry losses

F94

Textual Amendments

- F9** Sch. 7A paras. 2-5 omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 4](#)

Alternative calculation by reference to market value

F95

Textual Amendments

- F9** Sch. 7A paras. 2-5 omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 4](#)

Restrictions on the deduction of pre-entry losses

- 6 (1) In the calculation of the amount to be included in respect of chargeable gains in any company's total profits for any accounting period—
- (a) if in that period there is any chargeable gain from which the whole or any part of any pre-entry loss accruing in that period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;
 - (b) if, after all such deductions as may be made under paragraph (a) above have been made, there is in that period any chargeable gain from which the whole or any part of any pre-entry loss carried forward from a previous accounting period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;
 - (c) the total chargeable gains (if any) remaining after the making of all such deductions as may be made under paragraph (a) or (b) above shall be subject to deductions in accordance with section 8(1) in respect of any allowable losses that are not pre-entry losses; and
 - (d) any pre-entry loss which has not been the subject of a deduction under paragraph (a) or (b) above (as well as any other losses falling to be carried forward under section 8(1)) shall be carried forward to the following accounting period of that company.

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- (2) Subject to sub-paragraph (1) above, any question as to which or what part of any pre-entry loss has been deducted from any particular chargeable gain shall be decided—
- ^{F10}(a)
- (b) ^{F11} ... , in accordance with such elections as may be made by the company to which the loss accrued;
- and any question as to which or what part of any pre-entry loss has been carried forward from one accounting period to another shall be decided accordingly.
- (3) An election by any company under this paragraph shall be made by notice to the inspector given—
- ^{F12}(a)
- (b) ^{F13} ... , before the end of the period of two years beginning with the end of the accounting period of that company in which the gain in question accrued.
- (4) For the purposes of this Schedule where any matter falls to be determined under this paragraph by reference to an election but no election is made, it shall be assumed, so far as consistent with any elections that have been made—
- (a) that losses are set against gains in the order in which the losses accrued; and
- (b) that the gains against which they are set are also determined according to the order in which they accrued with losses being set against earlier gains before they are set against later ones.

Textual Amendments

- F10** Sch. 7A para. 6(2)(a) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 5\(2\)\(a\)](#)
- F11** Words in Sch. 7A para. 6(2)(b) omitted (with effect in accordance with paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 5\(2\)\(b\)](#)
- F12** Sch. 7A para. 6(3)(a) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 5\(3\)\(a\)](#)
- F13** Words in Sch. 7A para. 6(3)(b) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 5\(3\)\(b\)](#)

Gains from which pre-entry losses are to be deductible

- 7 (1) A pre-entry loss that accrued to a company before it became a member of the relevant group shall be deductible from a chargeable gain accruing to that company if the gain is one accruing—
- (a) on a disposal made by that company before the date on which it became a member of the relevant group (“the entry date”);
- (b) on the disposal of an asset which was held by that company immediately before the entry date; or
- ^{F14}(c) on the disposal of any asset in respect of which the conditions in sub-paragraph (1A) are met.]
- [The conditions referred to in sub-paragraph (1)(c) are—
- ^{F15}(1A) (a) that the asset was acquired, on or after the entry date, by—
- (i) the company to which the pre-entry loss accrued (“company A”), or

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- (ii) a company which, at the time of the acquisition, was a group company of company A,
from a person who at the time of the acquisition was not a group company of company A, and
 - (b) that the asset has not, since its acquisition from that person, been used or held for any purposes other than those of a trade or business which—
 - (i) was being carried on by company A immediately before the entry date, and
 - (ii) continued until the disposal to be carried on by company A or a company which, when it carried on the trade or business, was a group company of company A.
- (1B) For the purposes of sub-paragraph (1A), a company is a “group company of company A” at any time when it is a member of a group of companies of which company A is also a member.
- (1C) Where a company, having become a member of the relevant group, subsequently becomes a member of another group (“the new group”)—
 - (a) sub-paragraph (1) continues to have effect, in relation to any loss which accrued to the company before it became a member of the relevant group, by reference to the date on which it became such a member, and
 - (b) accordingly, that sub-paragraph does not apply separately in relation to the loss by reason of it also having accrued to the company before it became a member of the new group.]
- ^{F16}(2)
- (3) Where two or more companies become members of the relevant group at the same time and those companies were all members of the same group of companies immediately before they became members of the relevant group, then ^{F17}... —
 - (a) an asset shall be treated for the purposes of sub-paragraph (1)(b) above as held, immediately before it became a member of the relevant group, by the company to which the pre-entry loss in question accrued if that company is one of those companies and the asset was in fact so held by another of those companies;
 - ^{F18}(b) ; and
 - (c) the acquisition of an asset shall be treated for the purposes of [^{F19}sub-paragraph (1A)] above as an acquisition by the company to which the pre-entry loss in question accrued if that company is one of those companies and the asset was in fact acquired (whether before or after they became members of the relevant group) by another of those companies.
- ^{F20}(4) Sub-paragraphs (4A) and (4B) apply for determining for the purposes of this paragraph whether an asset on the disposal of which a chargeable gain accrues was an asset held by a company immediately before the entry date (a “pre-entry asset”).
- (4A) Except as provided by sub-paragraph (4B), an asset is not a pre-entry asset if—
 - (a) the company which held the asset at the entry date is not the company which makes the disposal, and
 - (b) since the entry date that asset has been disposed of otherwise than by a disposal to which section 171 applies.

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- (4B) Without prejudice to sub-paragraph (4C), where, on a disposal to which section 171 does not apply—
- (a) an asset would cease to be a pre-entry asset by virtue of sub-paragraph (4A), but
 - (b) the company making the disposal retains an interest in or over the asset in question,
- that interest is a pre-entry asset.
- (4C) For the purposes of this paragraph—
- (a) an asset acquired or held by a company at any time and an asset held at a later time by that company, or by any company which is or has been a member of the same group of companies as that company, is to be treated as the same asset if the value of the second asset is derived in whole or in part from the first asset, and
 - (b) if—
 - (i) any asset is treated (whether by virtue of paragraph (a) or otherwise) as the same as an asset held by a company at a later time, and
 - (ii) the first asset would have been a pre-entry asset in relation to that company,
 the second asset is also to be treated as a pre-entry asset in relation to that company;
- and paragraph (a) applies, in particular, where the second asset is a freehold and the first asset is a leasehold the lessee of which acquires the reversion.]
- (5) Subject to sub-paragraph (6) below, where a gain accrues on the disposal of the whole or any part of—
- (a) any asset treated as a single asset but comprising assets only some of which were held at the time mentioned in paragraph (b) of sub-paragraph (1) ^{F21}... above, or
 - (b) an asset which is treated as held at that time by virtue of a provision requiring an asset which was not held at that time to be treated as the same as an asset which was so held,
- a pre-entry loss shall be deductible by virtue of paragraph (b) of sub-paragraph (1) ^{F21}... above from the amount of that gain to the extent only of such proportion of that gain as is attributable to assets held at that time or, as the case may be, represents the gain that would have accrued on the asset so held.
- (6) Where—
- (a) a chargeable gain accrues by virtue of subsection (10) of section 116 on the disposal of a qualifying corporate bond,
 - (b) that bond was not held as required by paragraph (b) of sub-paragraph (1) ^{F22}... above at the time mentioned in that paragraph, and
 - (c) the whole or any part of the asset which is the old asset for the purposes of that section was so held,
- the question whether that gain is one accruing on the disposal of an asset the whole or any part of which was held by a particular company at that time shall be determined for the purposes of this paragraph as if the bond were deemed to have been so held to the same extent as the old asset.

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Textual Amendments

- F14** Sch. 7A para. 7(1)(c) substituted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(2\)](#)
- F15** Sch. 7A para. 7(1A)-(1C) inserted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(3\)](#)
- F16** Sch. 7A para. 7(2) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(4\)](#)
- F17** Words in Sch. 7A para. 7(3) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(5\)\(a\)](#)
- F18** Sch. 7A para. 7(3)(b) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(5\)\(b\)](#)
- F19** Words in Sch. 7A para. 7(3)(c) substituted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(5\)\(c\)](#)
- F20** Sch. 7A para. 7(4)-(4C) substituted for Sch. 7A para. 7(4) (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(6\)](#)
- F21** Words in Sch. 7A para. 7(5) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(7\)](#)
- F22** Words in Sch. 7A para. 7(6)(b) omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 6\(8\)](#)

Change of a company's nature

- 8 (1) If—
- (a) within any period of three years, a company becomes a member of a group of companies and there is (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade [^{F23}or business][^{F24}which was carried on by that company immediately before it became a member of that group], or
 - (b) at any time after the scale of the activities in a trade [^{F23}or business] carried on by a company has become small or negligible, and before any considerable revival of the trade [^{F23}or business], that company becomes a member of a group of companies,
- the trade [^{F23}or business] carried on before that change, or which has become small or negligible, shall be disregarded for the purposes of [^{F25}paragraph 7(1A)] above in relation to any time before the company became a member of the group in question.
- [^{F26}(2) In sub-paragraph (1) “a major change in the nature or conduct of a trade or business” includes—
- (a) a major change in the type of property dealt in, or services or facilities provided, in the trade or business,
 - (b) a major change in customers, markets or outlets of the trade or business, or
 - (c) in the case of a company with investment business (within the meaning of section 1218 of CTA 2009), a major change in the nature of the investments held;
- and this paragraph applies even if the change is the result of a gradual process which began outside the period of three years mentioned in sub-paragraph (1)(a).]
- (3) Where the operation of this paragraph depends on circumstances or events at a time after the company becomes a member of any group of companies (but not more than

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three years after), an assessment to give effect to this paragraph shall not be out of time if made within six years from that time or the latest such time.

Textual Amendments

- F23** Words in Sch. 7A para. 8(1) inserted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 7(2)(a)**
- F24** Words in Sch. 7A para. 8(1) substituted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 7(2)(b)**
- F25** Words in Sch. 7A para. 8(1) substituted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 7(2)(c)**
- F26** Sch. 7A para. 8(2) substituted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 7(3)**

Modifications etc. (not altering text)

- C1** Sch. 7A para. 8(1) applied by 1988 c. 1, Sch. 28A para. 13 (as inserted (with effect in accordance with Sch. 26 para. 5 of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 26 para. 3**)

Identification of “the relevant group” and application of Schedule to every connected group

^{F279}

Textual Amendments

- F27** Sch. 7A para. 9 omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 11 para. 8**

Appropriations to stock in trade

- 10 Where, but for an election under subsection (3) of section 161, there would be deemed to have been a disposal at any time by any company of any asset—
- (a) the amount by which the market value of the asset may be treated as increased in pursuance of that election shall not include the amount of any pre-entry loss that would have accrued on that disposal; and
 - (b) this Schedule shall have effect as if the pre-entry loss of the last mentioned amount had accrued to that company at that time.

Continuity provisions

- 11 (1) This paragraph applies where provision has been made by or under any enactment (“the transfer legislation”) for the transfer of property, rights and liabilities to any person from—
- (a) a body established by or under any enactment for the purpose, in the exercise of statutory functions, of carrying on any undertaking or industrial or other activity in the public sector or of exercising any other statutory functions;
 - (b) a subsidiary of such a body; or
 - (c) a company wholly owned by the Crown.

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- (2) A loss shall not be a pre-entry loss for the purposes of this Schedule in relation to any company to whom a transfer has been made by or under the transfer legislation if that loss—
- (a) accrued to the person from whom the transfer has been made; and
 - (b) falls to be treated, in accordance with any enactment made in relation to transfers by or under that legislation, as a loss accruing to that company.
- (3) For the purposes of this Schedule where a company became a member of the relevant group by virtue of the transfer by or under the transfer legislation of any shares in or other securities of that company or any other company—
- (a) a loss that accrued to that company before it so became a member of that group shall not be a pre-entry loss in relation to that group; ^{F28} ...
 - ^{F28}(b)
- (4) For the purposes of this paragraph a company shall be regarded as wholly owned by the Crown if it is—
- (a) a company limited by shares in which there are no issued shares held otherwise than by, or by a nominee of, the Treasury, a Minister of the Crown, a Northern Ireland department or another company wholly owned by the Crown; or
 - (b) a company limited by guarantee of which no person other than the Treasury, a Minister of the Crown or a Northern Ireland department, or a nominee of the Treasury, a Minister of the Crown or a Northern Ireland department, is a member.
- (5) In this paragraph—
- “enactment” includes any provision of any Northern Ireland legislation, within the meaning of section 24 of the ^{M1}Interpretation Act 1978; and
- “statutory functions” means functions under any enactment, under any subordinate legislation, within the meaning of the Interpretation Act 1978, or under any statutory rules, within the meaning of the ^{M2}Statutory Rules (Northern Ireland) Order 1979.

Textual Amendments

F28 Sch. 7A para. 11(3)(b) and preceding word omitted (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 11 para. 9](#)

Marginal Citations

M1 1978 c. 30.

M2 S.I. 1979/1573 (N.I. 13).

Companies changing groups on certain transfers of shares etc.

- 12 For the purposes of this Schedule, and without prejudice to paragraph 11 above, where—
- (a) a company which is a member of a group of companies becomes at any time a member of another group of companies as the result of a disposal of shares in or other securities of that company or any other company; and

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(b) that disposal is one on which, by virtue of any [^{F29}of the no gain/no loss provisions], neither a gain nor a loss would accrue,

this Schedule shall have effect in relation to the losses that accrued to that company before that time and the assets held by that company at that time as if any time when it was a member of the first group were included in the period during which it is treated as having been a member of the second group.]

Textual Amendments

F29 Words in Sch. 7A para. 12(b) substituted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 68](#)

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