

*Status: Point in time view as at 31/07/1998.*

**Changes to legislation:** Taxation of Chargeable Gains Act 1992, SCHEDULE 7AA is up to date with all changes known to be in force on or before 15 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

### [<sup>F1</sup>SCHEDULE 7AA U.K.]

#### RESTRICTIONS ON SETTING LOSSES AGAINST PRE-ENTRY GAINS

##### Textual Amendments

- F1** Sch. 7AA inserted (with effect in accordance with s. 137(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 137(2), [Sch. 24](#)

##### *Introductory*

- 1 (1) This Schedule applies in the case of any company (“the relevant company”) in relation to any accounting period (“the gain period”) in which a pre-entry gain has accrued to that company.
- (2) Subject to sub-paragraph (3) below, references in this Schedule to a pre-entry gain are references to any chargeable gain accruing to a company in an accounting period in which that company joins a group of companies after the gain has accrued to it.
- (3) References in this Schedule to a company joining a group of companies—
- (a) are references to its becoming a member of any group of companies of which it was not a member immediately before becoming a member; but
  - (b) do not include references to a company becoming a member of a group of companies at any time before 17th March 1998.
- (4) Nothing in section 170(10) shall prevent all the companies of one group from being treated for the purposes of this Schedule as joining another group of companies when the principal company of the first group becomes a member of the other group.

##### *Restriction on setting off losses*

- 2 (1) Notwithstanding anything in section 8 or Schedule 7A, the amount to be included in respect of chargeable gains in the relevant company’s total profits for the gain period shall be computed by adding together—
- (a) the adjusted amounts of the pre-entry gains accruing to the relevant company in the gain period; and
  - (b) the amount which, in accordance with that section and (where applicable) that Schedule, would fall to be included in respect of chargeable gains in those profits if the amounts specified in sub-paragraph (2) below were disregarded.
- (2) The amounts to be disregarded as mentioned in sub-paragraph (1)(b) above are—
- (a) all the pre-entry gains accruing to the relevant company in the gain period; and

*Status: Point in time view as at 31/07/1998.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, SCHEDULE 7AA is up to date with all changes known to be in force on or before 15 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)*

- (b) so much of any amount falling within subsection (1)(a) or (b) of section 8 as is applied in accordance with paragraph 3 below in reducing the amount of any such pre-entry gain;

and, accordingly, amounts which are applied in accordance with paragraph 3 below in reducing the amount of any pre-entry gain accruing in the gain period shall not be available to be carried forward for the purposes of section 8(1)(b) or paragraph 6 of Schedule 7A to any subsequent accounting period.

*Adjustment of pre-entry gains*

- 3 (1) For the purposes of paragraph 2 above the adjusted amount of any pre-entry gain accruing to the relevant company in the gain period is the amount of that gain after any amount that may be set against it under this paragraph has been applied in reducing it.
- (2) Subject to sub-paragraphs (3) and (4) below, the whole or any part of any amount which under paragraph 4 below is a qualifying loss in relation to a pre-entry gain may be set against that gain, except so far as it has been set against another pre-entry gain.
- (3) Nothing in this Schedule shall authorise the reduction of a pre-entry gain by the deduction of the whole or any part of any amount to which paragraph 7 of Schedule 7A applies (pre-entry losses) unless that gain is a gain from which that amount is deductible in accordance with that paragraph.
- (4) Nothing in this Schedule shall authorise the reduction of a pre-entry gain by the deduction of any amount which section 18(3) prevents from being deductible from that gain.

*Meaning of “qualifying losse”s*

- 4 (1) Any amount which, in the case of the relevant company, would fall within section 8(1)(b) for the gain period is a qualifying loss in relation to any pre-entry gain accruing to the relevant company in that period.
- (2) Any allowable loss accruing to the relevant company in the gain period is a qualifying loss in relation to a pre-entry gain accruing to that company in that period if—
- (a) the time when the loss accrued is the same as or before the time when the gain accrued; or
- (b) the loss having accrued after the time when the gain accrued, there is no time falling within sub-paragraph (3) below between—
- (i) the time when the gain accrued; and
- (ii) the time immediately after the time when the loss accrued.
- (3) A time falls within this sub-paragraph, in relation to any allowable loss, if—
- (a) it is a time at which the relevant company joined a group of companies; and
- (b) the relevant asset was not in relevant ownership immediately before that time.
- (4) For the purposes of sub-paragraph (3) above the relevant asset was in relevant ownership at the time immediately before the relevant company joined a group of companies if, and only if, it was at that time held by the relevant company or by another company which—

*Status: Point in time view as at 31/07/1998.*

**Changes to legislation:** Taxation of Chargeable Gains Act 1992, SCHEDULE 7AA is up to date with all changes known to be in force on or before 15 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)

- (a) joined that group of companies (“the new group”) at the same time as the relevant company; and
  - (b) had been a member of the same group of companies as the relevant company immediately before joining the new group.
- (5) In this paragraph “relevant asset”, in relation to an allowable loss, means the asset on the disposal of which that loss accrued.

*Special rule for disposal of pooled assets*

- 5 (1) This paragraph applies where—
- (a) any holding of securities falls by virtue of any provision of Chapter I of Part IV to be treated as a single asset;
  - (b) one or more disposals of securities comprised in that holding is made by the relevant company in the gain period at or after the relevant entry time for that company; and
  - (c) an allowable loss accrues to the relevant company on that disposal or, as the case may be, on one or more of them.
- (2) The extent to which any allowable loss falling within sub-paragraph (1)(c) above is to be treated for the purposes of paragraph 4(4) above as a loss accruing on the disposal of an asset held at any entry time for the relevant company shall be determined—
- (a) by computing the notional net pre-entry loss accruing to the relevant company in the gain period;
  - (b) by setting allowable losses falling within sub-paragraph (1)(c) above against that notional net pre-entry loss in the order in which those losses accrued; and
  - (c) by treating the allowable loss as accruing on the disposal of an asset held at the entry time to the extent only that there is or remains an amount against which it can be set under paragraph (b) above.
- (3) For the purposes of this paragraph the notional net pre-entry loss accruing to the relevant company in the gain period shall be determined—
- (a) by computing all the chargeable gains and allowable losses that, on the relevant assumptions, would have accrued to the relevant company on the disposals falling within sub-paragraph (4) below;
  - (b) in a case where the aggregate amount of those gains is equal to or exceeds the aggregate amount of those losses, taking nil as the amount of the notional net pre-entry loss; and
  - (c) in any other case, taking the amount by which the aggregate of those losses exceeds the aggregate of those gains as the amount of the notional net pre-entry loss.
- (4) A disposal falls within this sub-paragraph to the extent that—
- (a) it is made by the relevant company in the gain period at or after the relevant entry time for that company; and
  - (b) on the relevant assumptions, it would be taken to be a disposal of securities that are pre-entry securities in relation to the relevant entry time for that company.
- (5) For the purposes of this paragraph the relevant assumptions, in relation to any company, are—

*Status: Point in time view as at 31/07/1998.*

**Changes to legislation:** *Taxation of Chargeable Gains Act 1992, SCHEDULE 7AA is up to date with all changes known to be in force on or before 15 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)*

- (a) that securities which are pre-entry securities in relation to the relevant entry time for that company are not to be regarded as part of a single asset with any securities which are post-entry securities in relation to that time;
  - (b) that securities disposed of in the gain period at or after that time are identified with securities that are pre-entry securities in relation to that time, rather than with securities which are post-entry securities in relation to that time; and
  - (c) subject to paragraphs (a) and (b) above, that securities disposed of in the gain period are identified in accordance with the provisions applicable apart from paragraphs (a) and (b) above.
- (6) For the purpose of applying the relevant assumptions in relation to any disposal of securities by the relevant company, it shall be further assumed—
- (a) that the relevant assumptions applied to every previous disposal in the gain period of securities by one company to another company in the same group of companies;
  - (b) that (subject to paragraph (c) below) securities disposed of by one member of a group of companies to another member of that group retain the same status (as pre-entry securities or as post-entry securities) in relation to a particular time as they had before the disposal; and
  - (c) that securities acquired by the relevant company at or after the relevant entry time for that company are to be taken to be pre-entry securities in relation to that time only if they fall within sub-paragraph (7) below.
- (7) Securities fall within this sub-paragraph if, on the relevant assumptions and the assumptions set out in sub-paragraph (6)(a) and (b) above, they fall to be identified with securities which—
- (a) were held by the relevant company or any associated company of the relevant company at the time which is the relevant entry time for the relevant company; and
  - (b) have not, between that time and the time when they are disposed of by the relevant company, been disposed of otherwise than by a disposal made by one company in a group of companies to another company in the same group.
- (8) Where anything is treated by virtue of section 127 as the same asset as any securities comprised in any holding of securities falling to be regarded as a single asset by virtue of any provision of Chapter I of Part IV, so much of that section as determines the time at which anything comprised in the asset is taken to have been acquired shall be disregarded in determining for the purposes of this paragraph whether securities comprised in the asset are pre-entry securities or post-entry securities.
- (9) Subject to sub-paragraphs (6) to (8) above, in this paragraph—
- “associated company” means a company which—
    - (a) at the time which is the relevant entry time in the case of the relevant company joined the group of companies that was also joined at that time by the relevant company; and
    - (b) had been a member of the same group of companies as the relevant company immediately before that time;
  - “entry time”, in relation to a company, means any time in the gain period at which the company joins a group of companies;
  - “pre-entry securities”, in relation to an entry time, means such securities acquired by the company in question before that time as have not already been disposed of before that time;

*Status: Point in time view as at 31/07/1998.*

**Changes to legislation:** Taxation of Chargeable Gains Act 1992, SCHEDULE 7AA is up to date with all changes known to be in force on or before 15 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)

“post-entry securities”, in relation to an entry time, means securities acquired by the company in question at or after that time;

“the relevant entry time” in relation to any company means—

- (a) if there is only one entry time for that company, that time; and
- (b) if there is more than one such time, the earlier or earliest such time.

“securities” has the meaning given for the purposes of section 104 by subsection (3) of that section.

*Special rule for losses on disposal of certain assets acquired at different times*

6 (1) This paragraph applies in relation to any allowable loss accruing to the relevant company in the gain period on the disposal of the whole or any part of an asset if—

- (a) the asset is one falling within sub-paragraph (2) below;
- (b) the disposal is one made at or at any time after an entry time; and
- (c) the loss is not one in relation to which paragraph 5(2) above applies.

(2) An asset falls within this sub-paragraph if it is—

- (a) an asset treated as a single asset but comprising assets only some of which were held immediately before the entry time by the relevant company or by an associated company; or
- (b) an asset which is treated as held immediately before the entry time by the relevant company or by an associated company by virtue of a provision requiring an asset which was not held immediately before that time to be treated as the same as an asset which was so held.

(3) Only such proportions of the loss as fall within sub-paragraph (4) below shall be taken for the purposes of paragraph 4(4) above to have accrued on the disposal of an asset held at the entry time.

(4) Those proportions are—

- (a) the proportion of the loss which, on a just and reasonable apportionment, is properly attributable to assets in fact held at the entry time; and
- (b) such proportion of the loss not falling within paragraph (a) above as represents the loss that would have accrued if the asset disposed of had been the asset in fact held at that time.

(5) In this paragraph—

“associated company”, in relation to any entry time, means a company which—

- (a) at that time joined the group of companies that was also joined at that time by the relevant company; and
- (b) had been a member of the same group of companies as the relevant company immediately before that time;

“entry time” means any time in the gain period at which the relevant company joins a group of companies.

*Special rule for gains and losses on deemed annual disposal*

7 Where—

- (a) a chargeable gain or allowable loss is treated as accruing at the end of a company’s accounting period by virtue of section 213(1)(c) or 214A(2)(b), and

*Status: Point in time view as at 31/07/1998.*

**Changes to legislation:** *Taxation of Chargeable Gains Act 1992, SCHEDULE 7AA is up to date with all changes known to be in force on or before 15 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)*

---

(b) that accounting period is one in which that company has joined a group of companies,

this Schedule shall have effect as if the gain or loss had accrued before the time or, as the case may be, the earliest time at which the company joined a group of companies in that period.]

**Status:**

Point in time view as at 31/07/1998.

**Changes to legislation:**

Taxation of Chargeable Gains Act 1992, SCHEDULE 7AA is up to date with all changes known to be in force on or before 15 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.