



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 [^{F1}(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.
- [^{F2}(2) For the purposes of corporation tax, subsection (1) does not apply to any securities acquired by a company before 1 April 1982.
- (2A) See also sections 105 to 105B and—
 - (a) section 106A in the case of capital gains tax, or
 - (b) sections 107 to 114 in the case of corporation tax.]
 - (3) For the purposes of this section and sections 105, 107, 110 ^{F3}... and 114—
 - [^{F4}“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

Changes to legislation: *Taxation of Chargeable Gains Act 1992, Section 104 is up to date with all changes known to be in force on or before 29 August 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) View outstanding changes*

- (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.

[^{F5}(3A) For the purposes of capital gains tax section 35(2) applies in relation to a section 104 holding as if the reference to an asset were to any of the securities constituting or forming part of the section 104 holding which were held by the person making the disposal on 31 March 1982.]

[^{F6}(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.]

[^{F7}(4A) For the purposes of this Chapter, securities of a company which are held by the trustees of a settlement, having been last acquired or deemed to be acquired by them in circumstances where section 236H or 236Q applied, shall (notwithstanding that they would otherwise fall to be treated as of the same class) be treated as of a different class from any other securities of the company acquired by those trustees.]

- (5) Nothing in this section or sections 110 ^{F8}... 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 [^{F9}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)(2A) substituted (with effect in accordance with Sch. 2 para. 100 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 85\(2\)](#)
- F3** Word in s. 104(3) omitted (with effect in accordance with Sch. 2 para. 100 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 85\(3\)](#)
- F4** 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\(3\)](#)
- F5** S. 104(3A) inserted (with effect in accordance with Sch. 2 para. 100 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 85\(4\)](#)
- F6** S. 104(4) substituted (with effect in accordance with s. 123(6) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 123\(4\)](#)
- F7** S. 104(4A) inserted (with effect in accordance with [Sch. 37 para. 18\(2\)](#) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para 18\(1\)](#)

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- F8** Word in s. 104(5) omitted (with effect in accordance with Sch. 2 para. 100 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 85\(5\)](#)
- 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\(5\)\(b\)](#)

Modifications etc. (not altering text)

- C1** S. 104 applied (with modifications) by [S.I. 1989/469](#), [reg. 27\(2\)](#) (as inserted by [S.I. 1996/846](#), [reg. 11\(b\)](#))
- C2** 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\)](#)
- C3** 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\(6\)](#)
- C4** S. 104 applied (with effect in accordance with art. 1(2)(3), Sch. 1 of the affecting S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), [regs. 1\(1\), 43\(3\)\(a\)](#)
- 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\(2\)](#), (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 87, 89\)](#)
- 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)

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 104-107 excluded by [2002 c. 23 Sch. 16 para. 47\(6\)](#)
- s. 104(4)(b) words substituted by S.I. 1989/469, reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(a\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by S.I. 2008/3068, art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by S.I. 1989/469, reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by S.I. 1989/469, reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)