



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART IV

SHARES, SECURITIES, OPTIONS ETC.

CHAPTER II

REORGANISATION OF SHARE CAPITAL, CONVERSION OF SECURITIES ETC.

^{F1} Company reconstructions ...

138 Procedure for clearance in advance.

- (1) Section 137 shall not affect the operation of section 135 or 136 in any case where, before the issue is made, the Board have, on the application of either company mentioned in section 137(1), notified the company that the Board are satisfied that the exchange [^{F1}or scheme of reconstruction] will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in section 137(1).
- (2) Any application under subsection (1) above shall be in writing and shall contain particulars of the operations that are to be effected and the Board may, within 30 days of the receipt of the application or of any further particulars previously required under this subsection, by notice require the applicant to furnish further particulars for the purpose of enabling the Board to make their decision; and if any such notice is not complied with within 30 days or such longer period as the Board may allow, the Board need not proceed further on the application.
- (3) The Board shall notify their decision to the applicant within 30 days of receiving the application or, if they give a notice under subsection (2) above, within 30 days of the notice being complied with.
- (4) If the Board notify the applicant that they are not satisfied as mentioned in subsection (1) above or do not notify their decision to the applicant within the time

Status: Point in time view as at 01/04/2009. This version of this provision has been superseded.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 138 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)

required by subsection (3) above, the applicant may within 30 days of the notification or of that time require the Board to transmit the application, together with any notice given and further particulars furnished under subsection (2) above, to the [F²tribunal]; and in that event any notification by the [F²tribunal] shall have effect for the purposes of subsection (1) above as if it were a notification by the Board.

- (5) If any particulars furnished under this section do not fully and accurately disclose all facts and considerations material for the decision of the Board or [F³the tribunal], any resulting notification that the Board or [F³the tribunal] are satisfied as mentioned in subsection (1) above shall be void.

Textual Amendments

- F1** Words in s. 138(1) 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\(6\)](#)
- F2** Word in s. 138(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 179\(a\)](#)
- F3** Words in s. 138(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 179\(b\)](#)

Modifications etc. (not altering text)

- C1** S. 138(2) applied (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 247\(2\)](#), 1034(1) (with [Sch. 2](#))
- C2** S. 138(2)-(5) applied by [Finance Act 1996 \(c. 8\)](#), Sch. 9 para. 12F(3) (as inserted (with effect in accordance with reg. 3(1) of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2007 \(S.I. 2007/3186\)](#), reg. 1(2), [Sch. 1 para. 16](#) (with S.I. 2008/1579, reg. 4(1)))
- C3** S. 138(2)-(5) applied by [Finance Act 1996 \(c. 8\)](#), Sch. 9 para. 12B(8) (as substituted (with effect in accordance with reg. 3(2) of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2007 \(S.I. 2007/3186\)](#), reg. 1(2), [Sch. 2 para. 8](#) (with S.I. 2008/1579, reg. 4(1)))
- C4** S. 138(2)-(5) applied by [Finance Act 2002 \(c. 23\)](#), Sch. 26 para. 30F(3) (as inserted (with effect in accordance with reg. 3(1) of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2007 \(S.I. 2007/3186\)](#), reg. 1(2), [Sch. 1 para. 19](#) (with S.I. 2008/1579, reg. 4(1)))
- C5** S. 138(2)-(5) applied by [Finance Act 2002 \(c. 23\)](#), Sch. 26 para. 30B(8) (as substituted (with effect in accordance with reg. 3(2) of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2007 \(S.I. 2007/3186\)](#), reg. 1(2), [Sch. 2 para. 10](#) (with S.I. 2008/1579, reg. 4(1)))

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