



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART IV

SHARES, SECURITIES, OPTIONS ETC.

CHAPTER III

MISCELLANEOUS PROVISIONS RELATING TO COMMODITIES, FUTURES, OPTIONS AND OTHER SECURITIES

144 Options and forfeited deposits.

- (1) Without prejudice to section 21, the grant of an option, and in particular—
 - (a) the grant of an option in a case where the grantor binds himself to sell what he does not own, and because the option is abandoned, never has occasion to own, and
 - (b) the grant of an option in a case where the grantor binds himself to buy what, because the option is abandoned, he does not acquire,is the disposal of an asset (namely of the option), but subject to the following provisions of this section as to treating the grant of an option as part of a larger transaction.
- (2) If an option is exercised, the grant of the option and the transaction entered into by the grantor in fulfilment of his obligations under the option shall be treated as a single transaction and accordingly—
 - (a) if the option binds the grantor to sell, the consideration for the option is part of the consideration for the sale, and
 - (b) if the option binds the grantor to buy, the consideration for the option shall be deducted from the cost of acquisition incurred by the grantor in buying in pursuance of his obligations under the option.
- (3) The exercise of an option by the person for the time being entitled to exercise it shall not constitute the disposal of an asset by that person, but, if an option is exercised

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Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 144 is up to date with all changes known to be in force on or before 17 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)

then the acquisition of the option (whether directly from the grantor or not) and the transaction entered into by the person exercising the option in exercise of his rights under the option shall be treated as a single transaction and accordingly—

- (a) if the option binds the grantor to sell, the cost of acquiring the option shall be part of the cost of acquiring what is sold, and
- (b) if the option binds the grantor to buy, the cost of the option shall be treated as a cost incidental to the disposal of what is bought by the grantor of the option.

(4) The abandonment of—

- (a) a quoted option to subscribe for shares in a company, or
- (b) a traded option or financial option, or
- (c) an option to acquire assets exercisable by a person intending to use them, if acquired, for the purpose of a trade carried on by him,

shall constitute the disposal of an asset (namely of the option); but the abandonment of any other option by the person for the time being entitled to exercise it shall not constitute the disposal of an asset by that person.

(5) This section shall apply in relation to an option binding the grantor both to sell and to buy as if it were 2 separate options with half the consideration attributed to each.

(6) In this section references to an option include references to an option binding the grantor to grant a lease for a premium, or enter into any other transaction which is not a sale, and references to buying and selling in pursuance of an option shall be construed accordingly.

(7) This section shall apply in relation to a forfeited deposit of purchase money or other consideration money for a prospective purchase or other transaction which is abandoned as it applies in relation to the consideration for an option which binds the grantor to sell and which is not exercised.

(8) In subsection (4) above and sections 146 and 147—

- (a) “quoted option” means an option which, at the time of the abandonment or other disposal, is [^{F1}listed on] a recognised stock exchange;
- (b) “traded option” means an option which, at the time of the abandonment or other disposal, is [^{F2}listed] on a recognised stock exchange or a recognised futures exchange; and
- (c) “financial option” means an option which is not a traded option, as defined in paragraph (b) above, but which, subject to subsection (9) below—
 - (i) relates to currency, shares, securities or an interest rate and is granted (otherwise than as agent) by a member of a recognised stock exchange, by an [^{F3}authorised person within the meaning given by section 143(8)]; or
 - (ii) relates to shares or securities which are dealt in on a recognised stock exchange and is granted by a member of such an exchange, acting as agent; or
 - (iii) relates to currency, shares, securities or an interest rate and is granted to such an authorised person ^{F4}... as is referred to in sub-paragraph (i) above and concurrently and in association with an option falling within that sub-paragraph which is granted by that authorised person ^{F4}... to the grantor of the first-mentioned option; or

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(iv) relates to shares or securities which are dealt in on a recognised stock exchange and is granted to a member of such an exchange, including such a member acting as agent.

(9) If the Treasury by order so provide, an option of a description specified in the order shall be taken to be within the definition of “financial option” in subsection (8)(c) above.

Textual Amendments

- F1** Words in s. 144(8)(a) substituted (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 26 para. 8(3)**
- F2** Word in s. 144(8)(b) substituted (with effect in accordance with Sch. 38 para. 10(3) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 38 para. 10(2)(a)**
- F3** Words in s. 144(8)(c)(i) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), arts. 1(2)(a), **65(a)**
- F4** Words in s. 144(8)(c)(iii) omitted (1.12.2001) by virtue of The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), arts. 1(2)(a), **65(b)**

Modifications etc. (not altering text)

- C1** S. 144 extended (27.7.1993) by 1993 c. 37, s. 12, **Sch. 2 Pt. I para. 26(2)**
- C2** S. 144 modified (19.9.1994) by Coal industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 6(1)(2)** (with Sch. 4 paras. 6(4), 14); S.I. 1994/2189, art. 2, Sch.
- C3** S. 144 applied (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **ss. 562(1), 883(1)** (with s. 563, Sch. 2)
- C4** S. 144(2) applied (with effect in accordance with s. 1329(1) of the affecting Act) by Corporation Tax Act 2009 (c. 4), **ss. 653(2), 1329(1)** (with Pts. 1, 2, Sch. 2 para. 94)
- C5** S. 144(2) excluded (12.2.2019) by Finance Act 2019 (c. 1), **Sch. 2 para. 13(2)**

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