Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VI

COMPANIES, OIL, INSURANCE ETC.

CHAPTER I

COMPANIES

Companies leaving groups

[F1 179A Reallocation within group of gain or loss accruing under section 179

(1) This section applies where—

(a) a company ("company A") is treated by virtue of section 179(3) or (6) as having sold and immediately reacquired an asset at market value, and

(b) a chargeable gain or an allowable loss accrues to the company on the deemed sale.

(2) In this section "time of accrual" means—

(a) in a case where section 179(3) applies, the time at which, by virtue of section 179(4), the gain or loss referred to in subsection (1) above is treated as accruing to company A;

(b) in a case where section 179(6) applies, the latest time at which the company satisfies the conditions in section 179(7).

(3) If—

(a) a joint election under this section is made by company A and a company ("company C") that was a member of the relevant group at the time of accrual, and

(b) the conditions in subsections (6) to (8) below are all met,

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Changes to legislation: *Taxation of Chargeable Gains Act 1992, Section 179A is up to date with all changes known to be in force on or before 13 June 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)*

the chargeable gain or allowable loss accruing on the deemed sale, or such part of it as may be specified in the election, shall be treated as accruing not to company A but to company C.

(4) In subsection (3) above "the relevant group" means—

(a) in a case where section 179(3) applies, the group of which company A was a member at the time of accrual;

(b) in a case where section 179(6) applies, the second group referred to in section 179(5).

[F2(5) An election, or two or more elections made simultaneously, is or are of no effect if, taken together with each earlier election (if any) made in respect of the same gain or loss, it or they would (apart from this subsection) have effect in relation to an amount exceeding the gain or loss.**]**

(6) The first condition is that, at the time of accrual, company C—

(a) was resident in the United Kingdom, or

(b) owned assets that were chargeable assets in relation to it.

(7) The second condition is that neither company A nor company C was at that time a qualifying friendly society within the meaning given by section 171(5)).

(8) The third condition is that company C was not at that time an investment trust, a venture capital trust or a dual resident investing company.

(9) A gain or loss treated by virtue of this section as accruing to a company that is not resident in the United Kingdom shall be treated as accruing in respect of a chargeable asset held by that company.

(10) An election under this section must be made—

(a) by notice to an officer of the Board;

(b) no later than two years after the end of the accounting period of company A in which the time of accrual fell.

(11) Any payment by company A to company C, or by company C to company A, in pursuance of an agreement between them in connection with the election—

(a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and

(b) shall not for any purposes of the Corporation Tax Acts be regarded as a distribution F3... ,

provided it does not exceed the amount of the chargeable gain or allowable loss that is treated, as a result of the election, as accruing to company C.

(12) For the purposes of this section an asset is a "chargeable asset" in relation to a company at a particular time if any gain accruing to the company on a disposal of the asset by the company at that time would be a chargeable gain and would by virtue of **[**F4section 10B**]** form part of its chargeable profits for corporation tax purposes.**]**

Textual Amendments

F1 S. 179A inserted (with application in accordance with s. 42(4) of the amending Act) by Finance Act 2002 (c. 23), **s. 42(1)**

F2 S. 179A(5) substituted (with effect in accordance with Sch. 12 para. 5 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 12 para. 2**

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F3 Words in s. 179A(11)(b) repealed (with effect in accordance with Sch. 11 Pt. 2(7) Note of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 11 Pt. 2(7)**

F4 Words in s. 179A(12) substituted (with effect in accordance with Sch. 4 para. 10(3) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 4 para. 8(2)**

Modifications etc. (not altering text)

C1 Ss. 170-181 modified (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 35(a)** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1

C2 S. 179A excluded (with effect in accordance with reg. 1(2) of the affecting S.I.) by The Taxation of Securitisation Companies Regulations 2006 (S.I. 2006/3296), regs. 1(1), **18(2)**

C3 S. 179A excluded (with effect in accordance with reg. 1(2) of the affecting S.I.) by The Taxation of Insurance Securitisation Companies Regulations 2007 (S.I. 2007/3402), regs. 1(1), **9(3)**

C4 Ss. 179A, 179B modified (with effect in accordance with s. 1184(1) of the affecting Act) by Corporation Tax Act 2010 (c. 4), **ss. 601**, 1184(1) (with Sch. 2)

Status:
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