



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART II

#### GENERAL PROVISIONS RELATING TO COMPUTATION OF GAINS AND ACQUISITIONS AND DISPOSALS OF ASSETS

### CHAPTER I

#### INTRODUCTORY

#### **18 Transactions between connected persons.**

- (1) This section shall apply where a person acquires an asset and the person making the disposal is connected with him.
- (2) Without prejudice to the generality of section 17(1) the person acquiring the asset and the person making the disposal shall be treated as parties to a transaction otherwise than by way of a bargain made at arm's length.
- (3) Subject to subsection (4) below, if on the disposal a loss accrues to the person making the disposal, it shall not be deductible except from a chargeable gain accruing to him on some other disposal of an asset to the person acquiring the asset mentioned in subsection (1) above, being a disposal made at a time when they are connected persons.
- (4) Subsection (3) above shall not apply to a disposal by way of gift in settlement if the gift and the income from it is wholly or primarily applicable for educational, cultural or recreational purposes, and the persons benefiting from the application for those purposes are confined to members of an association of persons for whose benefit the gift was made, not being persons all or most of whom are connected persons.
- (5) Where the asset mentioned in subsection (1) above is an option to enter into a sale or other transaction given by the person making the disposal a loss accruing to the person acquiring the asset shall not be an allowable loss unless it accrues on a disposal of the option at arm's length to a person who is not connected with him.

*Status: Point in time view as at 01/04/2020.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 18 is up to date with all changes known to be in force on or before 21 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)*

- (6) Subject to subsection (7) below, in a case where the asset mentioned in subsection (1) above is subject to any right or restriction enforceable by the person making the disposal, or by a person connected with him, then (where the amount of the consideration for the acquisition is, in accordance with subsection (2) above, deemed to be equal to the market value of the asset) that market value shall be—
- (a) what its market value would be if not subject to the right or restriction, minus—
  - (b) the market value of the right or restriction or the amount by which its extinction would enhance the value of the asset to its owner, whichever is the less.
- (7) If the right or restriction is of such a nature that its enforcement would or might effectively destroy or substantially impair the value of the asset without bringing any countervailing advantage either to the person making the disposal or a person connected with him or is an option or other right to acquire the asset or, in the case of incorporeal property, is a right to extinguish the asset in the hands of the person giving the consideration by forfeiture or merger or otherwise, the market value of the asset shall be determined, and the amount of the gain accruing on the disposal shall be computed, as if the right or restriction did not exist.
- (8) Subsections (6) and (7) above shall not apply to a right of forfeiture or other right exercisable on breach of a covenant contained in a lease of land or other property, and shall not apply to any right or restriction under a mortgage or other charge.
- [<sup>F1</sup>(9) If deductible clogged losses have accrued to a company, the company may make a claim in respect of an accounting period for—
- (a) an amount of the deductible clogged losses to be treated, for the purposes of section 2A(1)(a), as allowable losses accruing in the accounting period, and
  - (b) the same amount of allowable losses accruing to the company in the period to be treated, for the purposes of section 2A(1)(b), as allowable losses previously accruing to the company while it was within the charge to corporation tax.
- (10) The amount in respect of which the claim is made may not exceed the total amount of any allowable losses accruing to the company in the accounting period for which the claim is made.
- (11) In subsection (9), “deductible clogged losses” means losses which would, apart from Part 7ZA of CTA 2010, be deductible under subsection (3) from chargeable gains accruing to the company in an accounting period.
- (12) A claim under subsection (9) must be made by being included in the company’s tax return for the accounting period for which the claim is made.]

#### **Textual Amendments**

- F1** S. 18(9)-(12) inserted (with effect in relation to accounting periods beginning on or after 1.4.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 4 paras. 17, 42](#) (with [Sch. 4 paras. 43-46](#))

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