



Finance Act 1994

1994 CHAPTER 9

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Chargeable gains

90 Annual exempt amount for 1994-95.

For the year 1994-95 section 3 of the ^{M1}Taxation of Chargeable Gains Act 1992 (annual exempt amount) shall have effect as if the amount specified in subsection (2) were £5,800, and accordingly subsection (3) of that section (indexation) shall not apply for that year.

Marginal Citations

M1 1992 c. 12.

91 Relief on re-investment.

- (1) Schedule 11 to this Act (which extends the relief on re-investment for individuals and trustees provided by Chapter IA of Part V of the Taxation of Chargeable Gains Act 1992) shall have effect.
- (2) That Schedule shall have effect in relation to disposals made on or after 30th November 1993.
- (3) In section 164H(1) of that Act—

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- (a) for “is greater than” there shall be substituted “ exceeds ”, and
 - (b) at the end there shall be added “ or half the value of the company’s assets as a whole (whichever is the greater); and section 294(3) and (4) of the Taxes Act (meaning of value of company’s assets as a whole) applies for the purposes of this subsection as it applies for the purposes of section 294 of that Act ”.
- (4) Subsection (3) above shall apply to determine whether a company is a qualifying company on or after 30th November 1993.

F192

Textual Amendments

- F1** S. 92 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(31), Note in the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(31)** Note

93 Indexation losses.

- (1) In section 53 of the Taxation of Chargeable Gains Act 1992 (indexation allowance), in subsection (1), for the words following “contrary” to the end of paragraph (c) there shall be substituted “if on the disposal of an asset there is an unindexed gain, an allowance (“the indexation allowance”) shall be allowed against the unindexed gain—
- (a) so as to give the gain for the purposes of this Act, or
 - (b) if the indexation allowance equals or exceeds the unindexed gain, so as to extinguish it (in which case the disposal shall be one on which, after taking account of the indexation allowance, neither a gain nor a loss accrues)”.
- (2) In subsection (2) of that section—
- (a) for “subsection (1) above” there shall be substituted “ this Chapter ”,
 - (b) for paragraph (a) there shall be substituted—
 - “(a) “unindexed gain” means the amount of the gain on the disposal computed in accordance with this Part”, and
 - (c) in paragraph (b), for “gain or loss” there shall be substituted “ gain ”.
- (3) After that subsection there shall be inserted—
- “(2A) Notwithstanding anything in section 16 of this Act, this section shall not apply to a disposal on which a loss accrues.”
- (4) In section 55 of that Act (assets acquired on a no gain/no loss disposal), after subsection (6) there shall be inserted—
- “(7) The rules in subsection (8) below apply (after the application of section 53 but before the application of section 35(3) or (4)) to give the gain or loss for the purposes of this Act where—
- (a) subsection (6) above applies to the disposal (the “disposal in question”) of an asset by any person (the “transferor”), and
 - (b) but for paragraph (b) of that subsection, the consideration the transferor would be treated as having given for the asset would include an amount or amounts of indexation allowance brought into

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account by virtue of section 56(2) on any disposal made before 30th November 1993.

- (8) The rules are as follows—
- (a) where (apart from this subsection) there would be a loss, an amount equal to the rolled-up indexation shall be added to it so as to increase it,
 - (b) where (apart from this subsection) the unindexed gain or loss would be nil, there shall be a loss of an amount equal to the rolled-up indexation, and
 - (c) where (apart from this subsection)—
 - (i) there would be an unindexed gain, and
 - (ii) the gain or loss would be nil but the amount of the indexation allowance used to extinguish the gain would be less than the rolled-up indexation,the difference shall constitute a loss.
- (9) In this section the “rolled-up indexation” means, subject to subsections (10) and (11) below, the amount or, as the case may be, the aggregate of the amounts referred to in subsection (7)(b) above; and subsections (10) and (11) below shall, as well as applying on the disposal in question, be treated as having applied on any previous part disposal by the transferor.
- (10) Where, for the purposes of any disposal of the asset by the transferor, any amount falling within any, or any combination of, paragraphs (a) to (c) of section 38(1) is required by any enactment to be excluded, reduced or written down, the amount or aggregate referred to in subsection (9) above (or so much of it as remains after the application of this subsection and subsection (11) below on a previous part disposal) shall be reduced in proportion to any reduction made in the amount falling within the paragraph, or the combination of paragraphs, in question.
- (11) Where the transferor makes a part disposal of the asset at any time, then, for the purposes of that and any subsequent disposal, the amount or aggregate referred to in subsection (9) above (or so much of it as remains after the application of this subsection and subsection (10) above on a previous part disposal by him or after the application of subsection (10) above on the part disposal) shall be apportioned between the property disposed of and the property which remains in the same proportions as the sums falling within section 38(1)(a) and (b).”
- (5) In section 56 of that Act (amount of consideration on no gain/no loss disposals)—
- (a) in subsection (2) for the words preceding paragraph (a) there shall be substituted “ On a no gain/no loss disposal by any person (“the transferor”) ”, and
 - (b) after that subsection there shall be added—
 - “(3) Where apart from this subsection—
 - (a) a loss would accrue on the disposal of an asset, and
 - (b) the sums allowable as a deduction in computing that loss would include an amount attributable to the application of the assumption in subsection (2) above on any no gain/no loss disposal made on or after 30th November 1993,

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those sums shall be determined as if that subsection had not applied on any such disposal made on or after that date and the loss shall be reduced accordingly or, if those sums are then equal to or less than the consideration for the disposal, the disposal shall be one on which neither a gain nor a loss accrues.

- (4) For the purposes of this section a no gain/no loss disposal is one which, by virtue of any enactment other than section 35(4), 53(1) or this section, is treated as a disposal on which neither a gain nor a loss accrues to the person making the disposal.”
- (6) In section 110 of that Act (indexation allowance for share pools), after subsection (6) there shall be inserted—
- “(6A) Where a disposal to a person acquiring or adding to a new holding is treated by virtue of any enactment as one on which neither a gain nor a loss accrues to the person making the disposal—
- (a) section 56(2) shall not apply to the disposal (and, accordingly, the amount of the consideration shall not be calculated on the assumption that a gain of an amount equal to the indexation allowance accrues to the person making the disposal), but
 - (b) an amount equal to the indexation allowance on the disposal shall be added to the indexed pool of expenditure for the holding acquired or, as the case may be, held by the person to whom the disposal is made (and, where it is added to the indexed pool of expenditure for a holding so held, it shall be added after any increase required by subsection (8)(a) below).”
- (7) Sections 103 (collective investment schemes, etc.), 111 (building society etc. shares), 182 to 184 (groups and associated companies) and 200 (oil industry assets) of that Act (all of which relate to indexation allowance) shall cease to have effect.
- (8) In Schedule 7A to that Act (restriction on set-off of pre-entry losses), in paragraph 2—
- (a) in sub-paragraph (2), for the definitions of “B” and “C” there shall be substituted—

“B is the amount of the item of relevant allowable expenditure for which an amount falls to be determined under this paragraph;

C is the total amount of all the relevant allowable expenditure”;
 - (b) in sub-paragraph (4), “except in relation to the calculation of any indexed rise” shall cease to have effect,
 - (c) after sub-paragraph (8) there shall be inserted—

“(8A) Where by virtue of section 55(8) the allowable loss accruing on the disposal of a pre-entry asset, or any part of the loss, is attributable to an amount (“the rolled-up amount”) of rolled-up indexation (as defined in section 55(9) to (11)), then, for the purposes of this paragraph—

 - (a) the total amount of all the relevant allowable expenditure shall be treated as increased by the rolled-up amount, and
 - (b) the amount of each item of relevant allowable expenditure shall be treated as increased by so much (if any) of the rolled-up amount as is attributable to that item.

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- (8B) Where—
- (a) section 56(3) applies on the disposal of a pre-entry asset on which an allowable loss accrues, and
 - (b) in accordance with that subsection, the total amount of all the relevant allowable expenditure is reduced by any amount (“the global reduction”),
the amount of each item of relevant allowable expenditure shall be treated for the purposes of this paragraph as reduced by so much (if any) of the global reduction as is attributable to that item”, and
 - (d) in sub-paragraph (9), the definition of “indexed rise” shall cease to have effect.
- (9) In paragraph 4 of that Schedule—
- (a) in sub-paragraph (12) the words from “together” to the end, and
 - (b) sub-paragraph (13),
- shall cease to have effect.
- (10) In paragraph 5 of that Schedule, after sub-paragraph (2) there shall be inserted—
- “(2A) In determining for the purposes of sub-paragraph (2)(a) above the amount of any loss which would have accrued if the asset had been disposed of at the relevant time at its market value at that time—
- (a) it shall be assumed that the amendments of this Act made by section 93(1) to (5) of the Finance Act 1994 (indexation losses) had effect in relation to that disposal and, accordingly,
 - (b) references in those amendments and in subsection (11) of that section to 30th November 1993 shall be read as references to the day on which the relevant time falls.”
- (11) This section shall have effect in relation to disposals made on or after 30th November 1993 and Schedule 12 to this Act (which gives transitional relief) shall have effect for the years 1993–94 and 1994–95.

94 Set-off of pre-entry losses.

- (1) Schedule 7A to the ^{M2}Taxation of Chargeable Gains Act 1992 (set off of pre-entry losses) shall be amended as follows.
- (2) In sub-paragraph (3)(a) of paragraph 2 (calculation of pre-entry proportion of loss), for “assumption applying by virtue of sub-paragraphs (4) and (5)” there shall be substituted “assumptions applying by virtue of sub-paragraphs (4) to (6B)”, and for sub-paragraph (7) of that paragraph there shall be substituted the following sub-paragraphs—
- “(6A) Notwithstanding anything in section 56(2), where in the case of the disposal of any pre-entry asset—
- (a) any company has at any time between the relevant time and the time of the disposal acquired that asset or the equivalent asset, and
 - (b) the acquisition was either an acquisition in pursuance of a disposal on which there is treated by virtue of section 171 as having been neither a gain nor a loss accruing or an acquisition by virtue of which an asset is treated as the equivalent asset,

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the items of relevant allowable expenditure and the times when those items shall be treated as having been incurred shall be determined for the purposes of this paragraph on the assumptions specified in sub-paragraph (6B) below.

(6B) Those assumptions are that—

- (a) the company by reference to which the asset in question is a pre-entry asset, and
- (b) the company mentioned in sub-paragraph (6A) above and every other company which has made an acquisition which, in relation to the disposal of that asset, falls within that sub-paragraph,

were the same person and, accordingly, that the pre-entry asset had been acquired by the company disposing of it at the time when it or the equivalent asset would have been treated for the purposes of this paragraph as acquired by the company mentioned in paragraph (a) above.

(7) In sub-paragraphs (5) to (6B) above the references to the equivalent asset, in relation to another asset acquired or disposed of by any company, are references to any asset which falls in relation to that company to be treated (whether by virtue of paragraph 1(8) above or otherwise) as the same as the other asset or which would fall to be so treated after applying, as respects other assets, the assumptions for which those sub-paragraphs provide.”

(3) In paragraph 9(2)(c) (cases where a group is relevant if a company was a member of it in the accounting period in which it joined another relevant group), after “paragraph (a)” there shall be inserted “ or (b) ”.

(4) This section shall apply in relation to the making in respect of any loss of any deduction from a chargeable gain where either the gain or the loss is one accruing on or after 11th March 1994.

Marginal Citations

M2 1992 c. 12.

95 Commodity and financial futures.

(1) In section 143 of the ^{M3}Taxation of Chargeable Gains Act 1992 (commodity and financial futures and qualifying options), subsection (4) shall cease to have effect and for subsection (6) there shall be substituted the following subsections—

“(6) In any case where, in the course of dealing in commodity or financial futures, a person has entered into a futures contract and—

- (a) he has not closed out the contract (as mentioned in subsection (5) above), and
- (b) he becomes entitled to receive or liable to make a payment, whether under the contract or otherwise, in full or partial settlement of any obligations under the contract,

then, for the purposes of this Act, he shall be treated as having disposed of an asset (namely, that entitlement or liability) and the payment received or made by him shall be treated as consideration for the disposal or, as the case may be, as incidental costs to him of making the disposal.

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- (7) Section 46 shall not apply to obligations under—
- (a) a commodity or financial futures contract which is entered into by a person in the course of dealing in such futures on a recognised futures exchange; or
 - (b) a commodity or financial futures contract to which an authorised person or listed institution is a party.
- (8) In this section—
- “authorised person” has the same meaning as in the Financial Services Act 1986, and
 - “listed institution” has the same meaning as in section 43 of that Act.”
- (2) This section shall apply in relation to contracts entered into on or after 30th November 1993.

Marginal Citations

M3 1992 c.12.

96 Cash-settled options.

- (1) After section 144 of the ^{M4}Taxation of Chargeable Gains Act 1992 (options and forfeited deposits) there shall be inserted the following section—

“144A Cash-settled options.

- (1) In any case where—
- (a) an option is exercised; and
 - (b) the nature of the option (or its exercise) is such that the grantor of the option is liable to make, and the person exercising it is entitled to receive, a payment in full settlement of all obligations under the option,
- subsections (2) and (3) below shall apply in place of subsections (2) and (3) of section 144.
- (2) As regards the grantor of the option—
- (a) he shall be treated as having disposed of an asset (namely, his liability to make the payment) and the payment made by him shall be treated as incidental costs to him of making the disposal; and
 - (b) the grant of the option and the disposal shall be treated as a single transaction and the consideration for the option shall be treated as the consideration for the disposal.
- (3) As regards the person exercising the option—
- (a) he shall be treated as having disposed of an asset (namely, his entitlement to receive the payment) and the payment received by him shall be treated as the consideration for the disposal;
 - (b) the acquisition of the option (whether directly from the grantor or not) and the disposal shall be treated as a single transaction and the

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cost of acquiring the option shall be treated as expenditure allowable as a deduction under section 38(1)(a) from the consideration for the disposal; and

(c) for the purpose of computing the indexation allowance (if any) on the disposal, the cost of the option shall be treated (notwithstanding paragraph (b) above) as incurred when the option was acquired.

(4) In any case where subsections (2) and (3) above would apply as mentioned in subsection (1) above if the reference in that subsection to full settlement included a reference to partial settlement, those subsections and subsections (2) and (3) of section 144 shall both apply but with the following modifications—

(a) for any reference to the grant or acquisition of the option there shall be substituted a reference to the grant or acquisition of so much of the option as relates to the making and receipt of the payment or, as the case may be, the sale or purchase by the grantor; and

(b) for any reference to the consideration for, or the cost of or of acquiring, the option there shall be substituted a reference to the appropriate proportion of that consideration or cost.

(5) In this section “appropriate proportion” means such proportion as may be just and reasonable in all the circumstances.”

(2) This section shall apply in relation to options granted on or after 30th November 1993.

Marginal Citations

M4 1992 c.12.

97 Settlements with foreign element: information.

(1) The ^{M5}Taxation of Chargeable Gains Act 1992 shall be amended as mentioned in subsections (2) to (4) below.

(2) In Chapter II of Part III (settlements) the following section shall be inserted after section 98—

“98A Settlements with foreign element: information.

Schedule 5A to this Act (which contains general provisions about information relating to settlements with a foreign element) shall have effect.”

(3) The following Schedule shall be inserted after Schedule 5—

“SCHEDULE 5A

Section 98A.

SETTLEMENTS WITH FOREIGN ELEMENT: INFORMATION

1 In this Schedule “the commencement day” means the day on which the Finance Act 1994 was passed.

2 (1) This paragraph applies if—

(a) a settlement was created before 19th March 1991,

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- (b) on or after the commencement day a person transfers property to the trustees otherwise than under a transaction entered into at arm's length and otherwise than in pursuance of a liability incurred by any person before that day,
 - (c) the trustees are not resident or ordinarily resident in the United Kingdom at the time the property is transferred, and
 - (d) the transferor knows, or has reason to believe, that the trustees are not so resident or ordinarily resident.
 - (2) Before the expiry of the period of twelve months beginning with the relevant day, the transferor shall deliver to the Board a return which—
 - (a) identifies the settlement, and
 - (b) specifies the property transferred, the day on which the transfer was made, and the consideration (if any) for the transfer.
 - (3) For the purposes of sub-paragraph (2) above the relevant day is the day on which the transfer is made.
 - 3 (1) This paragraph applies if a settlement is created on or after the commencement day, and at the time it is created—
 - (a) the trustees are not resident or ordinarily resident in the United Kingdom, or
 - (b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
 - (2) Any person who—
 - (a) is a settlor in relation to the settlement at the time it is created, and
 - (b) at that time fulfils the condition mentioned in sub-paragraph (3) below,shall, before the expiry of the period of three months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (4) below.
 - (3) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.
 - (4) The particulars are—
 - (a) the day on which the settlement was created;
 - (b) the name and address of the person delivering the return;
 - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
 - (5) For the purposes of sub-paragraph (2) above the relevant day is the day on which the settlement is created.
 - 4 (1) This paragraph applies if a settlement is created on or after 19th March 1991, and at the time it is created—
 - (a) the trustees are not resident or ordinarily resident in the United Kingdom, or
 - (b) the trustees are resident or ordinarily resident in the United Kingdom but fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.

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- (2) Any person who—
- (a) is a settlor in relation to the settlement at the time it is created,
 - (b) at that time does not fulfil the condition mentioned in sub-paragraph (3) below, and
 - (c) first fulfils that condition at a time falling on or after the commencement day,
- shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying the particulars mentioned in sub-paragraph (4) below.
- (3) The condition is that the person concerned is domiciled in the United Kingdom and is either resident or ordinarily resident in the United Kingdom.
- (4) The particulars are—
- (a) the day on which the settlement was created;
 - (b) the name and address of the person delivering the return;
 - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (5) For the purposes of sub-paragraph (2) above the relevant day is the day on which the person first fulfils the condition as mentioned in paragraph (c) of that sub-paragraph.
- 5 (1) This paragraph applies if—
- (a) the trustees of a settlement become at any time (the relevant time) on or after the commencement day neither resident nor ordinarily resident in the United Kingdom, or
 - (b) the trustees of a settlement, while continuing to be resident and ordinarily resident in the United Kingdom, become at any time (the relevant time) on or after the commencement day trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (2) Any person who was a trustee of the settlement immediately before the relevant time shall, before the expiry of the period of twelve months beginning with the relevant day, deliver to the Board a return specifying—
- (a) the day on which the settlement was created,
 - (b) the name and address of each person who is a settlor in relation to the settlement immediately before the delivery of the return, and
 - (c) the names and addresses of the persons who are the trustees immediately before the delivery of the return.
- (3) For the purposes of sub-paragraph (2) above the relevant day is the day when the relevant time falls.
- 6 (1) Nothing in paragraph 2, 3, 4 or 5 above shall require information to be contained in the return concerned to the extent that—
- (a) before the expiry of the period concerned the information has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or

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- (b) after the expiry of the period concerned the information falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.
- (2) Nothing in paragraph 2, 3, 4 or 5 above shall require a return to be delivered if—
- (a) before the expiry of the period concerned all the information concerned has been provided to the Board by any person in pursuance of the paragraph concerned or of any other provision, or
 - (b) after the expiry of the period concerned all the information concerned falls to be provided to the Board by any person in pursuance of any provision other than the paragraph concerned.”
- (4) In Schedule 5, paragraphs 11 to 14 (information) shall be omitted.
- (5) Subsection (4) above shall have effect where the relevant day falls on or after the day on which this Act is passed.
- (6) In the Table in section 98 of the ^{M6}Taxes Management Act 1970 (penalties) at the end of the second column there shall be inserted—
- “ Paragraphs 2 to 6 of Schedule 5A to the 1992 Act. ”

Marginal Citations

M5 1992 c. 12.

M6 1970 c. 9.

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