



# Finance Act 1995

## 1995 CHAPTER 4

### PART III

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

##### *Chargeable gains*

#### **46 Relief on re-investment: property companies etc.**

- (1) Chapter IA of Part V of the <sup>M1</sup>Taxation of Chargeable Gains Act 1992 (roll-over relief on re-investment) shall be amended as follows.
- (2) In section 164A (relief on re-investment for individuals) the following subsection shall be inserted after subsection (12)—
  - “(13) Where an acquisition is made on or after 29th November 1994 section 164H shall be ignored in deciding whether it is an acquisition of a qualifying investment for the purposes of this section.”
- (3) In section 164F (failure of conditions of relief) the following subsection shall be inserted after subsection (2)—
  - “(2A) In deciding for the purposes of subsection (2)(b) above whether a company is a qualifying company at a time falling on or after 29th November 1994 section 164H shall be ignored.”
- (4) In section 164I (qualifying trades) the following subsection shall be inserted after subsection (4)—
  - “(4A) In deciding whether a trade complies with this section at a time falling on or after 29th November 1994 paragraphs (g) and (h) of subsection (2) above shall be ignored.”

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Cross Heading: Chargeable gains. (See end of Document for details)*

### Marginal Citations

M1 1992 c. 12.

#### 47 Relief on re-investment: amount of relief, etc.

- (1) Chapter IA of Part V of the <sup>M2</sup>Taxation of Chargeable Gains Act 1992 (roll-over relief on re-investment) shall be amended as follows.
- (2) In section 164A after subsection (13) (inserted by section 46 above) there shall be inserted—
 

“(14) This section is subject to sections 164FF and 164FG.”
- (3) In section 164F after subsection (10B) there shall be inserted—
 

“(10C) Subsection (10A) above is subject to sections 164FF and 164FG.”
- (4) After section 164F there shall be inserted—

#### “164FF Qualifying investment acquired from husband or wife.

- (1) This section applies where—
  - (a) a claim is made under subsection (2) of section 164A or subsection (10A) of section 164F; and
  - (b) the qualifying investment as respects which the claim is made is acquired by a disposal to which section 58 applies.
- (2) The amounts by reference to which the reduction is determined shall be treated as including the amount of the consideration which the claimant would under this Act be treated as having given for the qualifying investment if he had, immediately upon acquiring the qualifying investment, disposed of it on a disposal which was not a no gain/no loss disposal.
- (3) Where—
  - (a) the claimant makes a disposal, which is not a no gain/no loss disposal, of the qualifying investment, and
  - (b) any disposal after 31st March 1982 and before he acquired the qualifying investment was a no gain/no loss disposal,

nothing in paragraph 1 of Schedule 3, section 35 or section 55 shall operate to defeat the reduction falling to be made under section 164A(2)(b) or, as the case may be, section 164F(10A)(b) in the consideration for the acquisition of the qualifying investment.
- (4) Where—
  - (a) the claimant makes a disposal of the qualifying investment and that disposal is a disposal to which section 58 applies, and
  - (b) any disposal after 31st March 1982 and before the claimant acquired the qualifying investment was a no gain/no loss disposal,

nothing in the application of paragraph 1 of Schedule 3, section 35 or section 55 to the person to whom the claimant makes the disposal of the

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qualifying investment shall operate to defeat the reduction made under section 164A(2)(b) or, as the case may be, section 164F(10A)(b).

(5) For the purposes of this section a no gain/no loss disposal is one on which by virtue of any of the enactments specified in section 35(3)(d) neither a gain nor a loss accrues.”

(5) After section 164FF (inserted by subsection (4) above) there shall be inserted—

**“164FG Multiple claims.**

(1) This section applies where—

- (a) a reduction is claimed by a person as respects a qualifying investment under subsection (2) of section 164A or subsection (10A) of section 164F; and
- (b) any other reduction has been or is being claimed by that person under either subsection as respects that investment.

(2) Subject to subsection (5) below, the reductions shall be treated as claimed separately in such sequence as the claimant elects or an officer of the Board in default of an election determines.

(3) In relation to a later claim as respects the qualifying investment under either subsection, the subsection shall have effect as if each of the relevant amounts were reduced by the aggregate of any reductions made in the amount or value of the consideration for the acquisition of that investment by virtue of any earlier claims as respects that investment.

(4) In subsection (3) above “the relevant amounts” means—

- (a) if the claim is under section 164A(2), the amounts referred to in subsection (2)(a)(ii) and (iii) and any amount required to be included by virtue of section 164FF(2); and
- (b) if the claim is under section 164F(10A), the amounts referred to in subsection (10A)(a)(i) and (ii) and any amount required to be included by virtue of section 164FF(2).

(5) A claim that has become final shall be treated as made earlier than any claim that has not become final.

(6) For the purposes of subsection (5) above, a claim becomes final when—

- (a) it may no longer be amended, or
- (b) it is finally determined,

whichever occurs first.”

(6) Subsection (4) above (and subsections (1) to (3) above so far as relating to subsection (4) above) shall apply to a claim as respects a qualifying investment if—

- (a) the qualifying investment is acquired on or after 20th June 1994; or
- (b) the claim is under section 164A(2) and relates to a disposal on or after that day; or
- (c) the claim is under subsection (10A) of section 164F and relates to a gain which (apart from that subsection) would accrue on or after that day.

(7) Subsection (5) above (and subsections (1) to (3) above so far as relating to subsection (5) above) shall apply to a claim as respects a qualifying investment if—

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- (a) the qualifying investment is acquired on or after 20th June 1994; or
  - (b) the claim is under section 164A(2) and relates to a disposal on or after that day; or
  - (c) the claim is under subsection (10A) of section 164F and relates to a gain which (apart from that subsection) would accrue on or after that day; or
  - (d) there is another claim as respects that qualifying investment which is under section 164A(2) and which relates to a disposal on or after that day; or
  - (e) there is another claim as respects that qualifying investment which is under subsection (10A) of section 164F and which relates to a gain which (apart from that subsection) would accrue on or after that day.
- (8) Any such adjustment as is appropriate in consequence of this section may be made (whether by discharge or repayment of tax, the making of an assessment or otherwise).

**Marginal Citations**

M2 1992 c. 12.

**48 Roll-over relief and groups of companies.**

- (1) In section 175 of the <sup>M3</sup>Taxation of Chargeable Gains Act 1992 (replacement of business assets by members of a group), after subsection (2) there shall be inserted the following subsections—

“(2A) Section 152 shall apply where—

- (a) the disposal is by a company which, at the time of the disposal, is a member of a group of companies,
- (b) the acquisition is by another company which, at the time of the acquisition, is a member of the same group, and
- (c) the claim is made by both companies,

as if both companies were the same person.

(2B) Section 152 shall apply where a company which is a member of a group of companies but is not carrying on a trade—

- (a) disposes of assets (or an interest in assets) used, and used only, for the purposes of the trade which (in accordance with subsection (1) above) is treated as carried on by the members of the group which carry on a trade, or
- (b) acquires assets (or an interest in assets) taken into use, and used only, for those purposes,

as if the first company were carrying on that trade.

(2C) Section 152 shall not apply if the acquisition of, or of the interest in, the new assets—

- (a) is made by a company which is a member of a group of companies, and
- (b) is one to which any of the enactments specified in section 35(3)(d) applies.”

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- (2) In section 247 of the <sup>M4</sup>Taxation of Chargeable Gains Act 1992 (roll-over relief on compulsory acquisition of land), after subsection (5) there shall be inserted the following subsection—
- “(5A) Subsections (2A) and (2C) of section 175 shall apply in relation to this section as they apply in relation to section 152 (but as if the reference in subsection (2C) to the new assets were a reference to the new land).”
- (3) Subject to subsection (4) below—
- (a) the subsection inserted into section 175 of the <sup>M5</sup>Taxation of Chargeable Gains Act 1992 by subsection (1) above as subsection (2A) shall be deemed always to have had effect; and
- (b) the earlier enactments corresponding to that section shall be deemed to have contained provision to the same effect as that subsection (2A).
- (4) Paragraph (c) of that subsection (2A) shall not apply unless the claim is made on or after 29th November 1994.
- (5) The subsection inserted into section 175 of the <sup>M6</sup>Taxation of Chargeable Gains Act 1992 by subsection (1) above as subsection (2B) shall apply where the disposal or the <sup>M7</sup>acquisition is on or after 29th November 1994; and the subsection so inserted as subsection (2C) shall apply where the acquisition is on or after that date.
- (6) The subsection inserted into section 247 of the <sup>M8</sup>Taxation of Chargeable Gains Act 1992 by subsection (2) above shall apply—
- (a) so far as it relates to section 175(2A), where the disposal or the acquisition is on or after 29th November 1994; and
- (b) so far as it relates to section 175(2C), where the acquisition is on or after that date.

#### Marginal Citations

<b>M3</b>	1992 c. 12.
<b>M4</b>	1992 c. 12.
<b>M5</b>	1992 c. 12.
<b>M6</b>	1992 c. 12.
<b>M7</b>	1992 c. 12.
<b>M8</b>	1992 c. 12.

#### 49 De-grouping charges.

- (1) In section 179 of the <sup>M9</sup>Taxation of Chargeable Gains Act 1992 (de-grouping charges), after subsection (2) there shall be inserted the following subsections—
- “(2A) Where—
- (a) a company that has ceased to be a member of a group of companies (“the first group”) acquired an asset from another company which was a member of that group at the time of the acquisition,
- (b) subsection (2) above applies in the case of that company’s ceasing to be a member of the first group so that subsection (1) above does not have effect as respects the acquisition of that asset,

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- (c) the company that made the acquisition subsequently ceases to be a member of another group of companies (“the second group”), and
  - (d) there is a connection between the two groups,
- subsection (1) above shall have effect in relation to the company’s ceasing to be a member of the second group as if it had been the second group of which both companies had been members at the time of the acquisition.
- (2B) For the purposes of subsection (2A) above there is a connection between the first group and the second group if, at the time when the chargeable company ceases to be a member of the second group, the company which is the principal company of that group is under the control of—
- (a) the company which is the principal company of the first group or, if that group no longer exists, which was the principal company of that group when the chargeable company ceased to be a member of it;
  - (b) any company which controls the company mentioned in paragraph (a) above or which has had it under its control at any time in the period since the chargeable company ceased to be a member of the first group; or
  - (c) any company which has, at any time in that period, had under its control either—
    - (i) a company which would have fallen within paragraph (b) above if it had continued to exist, or
    - (ii) a company which would have fallen within this paragraph (whether by reference to a company which would have fallen within that paragraph or to a company or series of companies falling within this sub-paragraph).”
- (2) After subsection (9) of that section there shall be inserted the following subsection—
- “(9A) Section 416(2) to (6) of the Taxes Act (meaning of control) shall have effect for the purposes of subsection (2B) above as it has effect for the purposes of Part XI of that Act; but a person carrying on a business of banking shall not for the purposes of that subsection be regarded as having control of any company by reason only of having, or of the consequences of having exercised, any rights of that person in respect of loan capital or debt issued or incurred by the company for money lent by that person to the company in the ordinary course of that business.”
- (3) This section has effect in relation to a company in any case in which the time of the company’s ceasing to be a member of the second group is on or after 29th November 1994.

**Marginal Citations**

**M9** [1992 c. 12.](#)

**[<sup>F1</sup>50 Corporate bonds.**

In section 117 of the <sup>M10</sup>Taxation of Chargeable Gains Act 1992 (qualifying corporate bonds) the following subsection shall be inserted after subsection (2)—

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“(2A) Where it falls to be decided whether at any time on or after 29th November 1994 a security (whenever issued) is a corporate bond for the purposes of this section, a security which falls within paragraph 2(2)(c) of Schedule 11 to the <sup>M11</sup>Finance Act 1989 (quoted indexed securities) shall be treated as not being a corporate bond within the definition in subsection (1) above.”]

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**Textual Amendments**

**F1** S. 50 repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3)

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**Marginal Citations**

**M10** 1992 c. 12.

**M11** 1989 c. 26.

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**Changes to legislation:**

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