
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Cross
Heading: Transitional provision for chargeable assets held after commencement. (See end of Document for details)

SCHEDULES

SCHEDULE 15 **U.K.**

LOAN RELATIONSHIPS: SAVINGS AND TRANSITIONAL PROVISIONS

PART I U.K.

CORPORATION TAX

Transitional provision for chargeable assets held after commencement

- 8 (1) This paragraph applies where—
- (a) on 31st March 1996 any company (“the relevant company”) held any asset representing, in whole or in part, any loan relationship to which it was a party on that date;
 - (b) the company did not dispose of that asset on that date and does not fall (apart from by virtue of this paragraph) to be treated for the purposes of the 1992 Act as having made a disposal of it on that date;
 - (c) the asset is not one to which section 92 of this Act or paragraph 15 below applies;
 - (d) that asset is not an asset representing a loan relationship to which section 93 of this Act applies;
 - (e) that asset is not a relevant qualifying asset; and
 - (f) a relevant event occurs.
- (2) For the purposes of this paragraph a relevant event occurs on the first occasion after 31st March 1996 when the relevant company or any other company falls to be treated for the purposes of the 1992 Act as making a disposal, other than one to which section 139, 140A, [^{F1}or 171(1)] of that Act (disposals on which neither a gain nor a loss accrues) applies, of—
- (a) the asset in question, so far as it has not come to be represented by an asset falling within paragraph (b) below, or
 - (b) any such asset as falls to be treated for the purposes of that Act as the same as that asset.
- (3) The amount of any chargeable gain or allowable loss which would have been treated as accruing to the relevant company on the assumption—
- (a) that it had made a disposal of the asset on 31st March 1996, and
 - (b) (so far as relevant for the purpose of computing the amount of that gain or loss) that the disposal had been for a consideration equal to the market value of the asset,

shall be brought into account (subject to the following provisions of this paragraph and to paragraph 9 below) as one accruing to the company (“the chargeable

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company”) which makes the disposal constituting the relevant event, and shall be so brought into account in the accounting period in which that event occurs.

- (4) The amount of the deemed chargeable gain or deemed allowable loss falling to be brought into account in accordance with sub-paragraph (3) above shall be treated as reduced by the extent (if any) to which it is, in relation to the company, an amount that already has been, or falls to be, taken into account for the purposes of corporation tax by virtue of the use of any accruals or mark to market basis of accounting—
- (a) for those purposes;
 - (b) as respects times before 1st April 1996; and
 - (c) in relation to the asset in question.
- (5) To the extent that any deemed chargeable gain or deemed allowable loss falling to be brought into account under sub-paragraph (3) above includes any gain or loss deemed to accrue under section 116(10)(b) of the 1992 Act (qualifying corporate bonds acquired in a reorganisation etc.), that gain or loss shall be deemed to have accrued for the purposes of that sub-paragraph and (without prejudice to its being brought into account in accordance with that sub-paragraph) shall not be taken to accrue again on the occurrence of the relevant event or any subsequent disposal of any asset.
- [^{F2}(5A) In any case where the relevant event has not occurred before 14th November 1996, the deemed chargeable gain or deemed allowable loss falling to be brought into account in accordance with sub-paragraph (3) above shall be computed without any account being taken of the provisions of section 119(6) and (7) of the 1992 Act (transfer of securities with or without accrued interest).]
- (6) In any case where—
- (a) the relevant company is one which at any time before 1st April 1996 was not resident in the United Kingdom,
 - (b) the asset was held by the relevant company at such a time, and
 - (c) if the asset had been disposed of at that time and a gain had accrued to the relevant company on that disposal, it would not have been included in the company’s chargeable profits by virtue of section [^{F3}10B] of the 1992 Act (gain [^{F4}attributable to a permanent establishment] of a non-resident company),
- the relevant company shall be deemed for the purposes of sub-paragraph (3) above to have acquired the asset, at market value, on the first day on which any relevant gain would have been included in the company’s chargeable profits for the purposes of corporation tax (whether because it is a day on which the company became resident, or the asset became situated, in the United Kingdom or for any other reason).
- (7) In sub-paragraph (6) above the reference, in relation to a company, to a relevant gain is a reference to any gain which would have accrued to the company on the following assumptions, that is to say—
- (a) that the relevant company disposed of the asset on the day in question;
 - (b) that that disposal gave rise to a gain; and
 - (c) that any allowable losses which might have been available for deduction under section 8(1) of, or Schedule 7A to, the 1992 Act were to be disregarded.
- (8) In any case where the company acquired the asset on a disposal on which, by virtue of any enactment specified in section 35(3)(d) of the 1992 Act, neither a gain nor a

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loss accrued to the person making the disposal, the reference in sub-paragraph (6) or (7) above to the relevant company includes—

- (a) a reference to the company from which it acquired the asset; and
- (b) if that company also acquired the asset on such a disposal, a reference to the company from which the asset was acquired by that company, and so on through any number of such disposals.

(9) In any case where section 176 of the 1992 Act (depreciatory transactions within a group) would have applied in relation to the disposal referred to in sub-paragraph (3) above if that disposal had actually taken place, that section shall apply for the calculation of any deemed allowable loss to be brought into account by virtue of that sub-paragraph.

(10) For the purposes of this paragraph a company that ceases to be within the charge to corporation tax shall be deemed to make a disposal of all its assets at their market value immediately before ceasing to be within that charge.

(11) In this section—

“market value” has the same meaning as in the 1992 Act; and

“relevant qualifying asset” has the same meaning as in paragraph 5 above.

Textual Amendments

- F1** Words in Sch. 15 para. 8(2) substituted (28.7.2000 with effect in relation to disposals on or after 1.4.2000) by 2000 c. 17, s. 102, Sch. 29 paras. 3(2), 45
- F2** Sch. 15 para. 8(5A) inserted (19.3.1997 with effect as mentioned in Sch. 13 para. 7 of the amending Act) by 1997 c. 15, s. 83(6), Sch. 13 para. 5
- F3** Word in Sch. 15 para. 8(6)(c) substituted (with effect in accordance with s. 155(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 27 para. 8(a)
- F4** Words in Sch. 15 para. 8(6)(c) substituted (with effect in accordance with s. 155(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 27 para. 8(b)

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