



# Finance Act 1999

## 1999 CHAPTER 16

### PART III U.K.

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

##### *Securities and investments*

#### 65 Relevant discounted securities. U.K.

(1) In paragraph 3 of Schedule 13 to the <sup>M1</sup>Finance Act 1996 (meaning of “relevant discounted security”), for sub-paragraph (1) there shall be substituted the following sub-paragraphs—

“(1) Subject to the following provisions of this paragraph and paragraph 14(1) below, in this Schedule “relevant discounted security” means any security which (whenever issued) is such that, taking the security as at the time of its issue, the amount payable on redemption—

- (a) on maturity, or
- (b) in the case of a security of which there may be a redemption before maturity, on at least one of the occasions on which it may be redeemed,

is or would be an amount involving a deep gain, or might be an amount which would involve a deep gain.

(1A) The occasions that are to be taken into account for the purpose of determining whether a security is a relevant discounted security by virtue of sub-paragraph (1)(b) above shall not include any of the following occasions on which it may be redeemed, that is to say—

- (a) any occasion not falling within sub-paragraph (1C) below on which there may be a redemption otherwise than at the option of the person who holds the security;
- (b) in a case where a redemption may occur as a result of the exercise of an option that is exercisable—

*Status: Point in time view as at 27/07/1999.*

*Changes to legislation: Finance Act 1999, Cross Heading: Securities and investments is up to date with all changes known to be in force on or before 25 July 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)*

- (i) only on the occurrence of an event adversely affecting the holder, or
- (ii) only on the occurrence of a default by any person, any occasion on which that option is unlikely (judged as at the time of the security's issue) to be exercisable;

but nothing in this sub-paragraph shall require an occasion on which a security may be redeemed to be disregarded by reason only that it is or may be an occasion that coincides with an occasion mentioned in this sub-paragraph.

(1B) In sub-paragraph (1A) above “event adversely affecting the holder”, in relation to a security, means an event which (judged as at the time of the security's issue) is such that, if it occurred and there were no provision for redemption, the interests of the person holding the security at the time of the event would be likely to be adversely affected.

(1C) An occasion on which there may be a redemption of a security falls within this sub-paragraph if—

- (a) the security is a security issued to a person connected with the issuer; or
- (b) the obtaining of a tax advantage by any person is the main benefit, or one of the main benefits, that might have been expected to accrue from the provision in accordance with which it may be redeemed on that occasion.

(1D) In sub-paragraph (1C) above “tax advantage” has the meaning given by section 709(1) of the Taxes Act 1988.

(1E) Subject to sub-paragraph (1F) below, where a security which is not a relevant discounted security but which would have been such a security if it had been issued to a person connected with the issuer—

- (a) is acquired by a person who is so connected, or
- (b) is held by a person who becomes so connected,

this Schedule shall have effect, in relation to times falling at or after the time of the acquisition or, as the case may be, the time when that person became so connected, as if the security were a relevant discounted security.

(1F) Where a security which—

- (a) is a relevant discounted security, but
- (b) would not be such a security but for sub-paragraph (1C)(a) or (1E) above,

is acquired by a person who is not connected with the issuer, this Schedule shall have effect, in relation to that person, as if the security ceased to be a relevant discounted security at the time of the acquisition.”

(2) After sub-paragraph (2) of that paragraph there shall be inserted the following sub-paragraphs—

“(2A) Nothing in sub-paragraph (2)(c) above shall prevent a security that would have been a relevant discounted security if it had been issued to a person connected with the issuer from being treated as a relevant discounted security by virtue of sub-paragraph (1E) above.

*Status: Point in time view as at 27/07/1999.*

*Changes to legislation: Finance Act 1999, Cross Heading: Securities and investments is up to date with all changes known to be in force on or before 25 July 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)*

- (2B) Nothing in sub-paragraph (2)(f) above shall prevent a security from being treated as a relevant discounted security by virtue of sub-paragraph (1C)(a) or (1E) above.”
- (3) Sub-paragraph (5) of that paragraph shall cease to have effect.
- (4) After sub-paragraph (6) of that paragraph there shall be inserted the following sub-paragraphs—
- “(7) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this paragraph.
- (8) In determining for the purposes of sub-paragraph (1C), (1E), (1F) or (2A) above whether a person is or becomes connected with the issuer, no account shall be taken of—
- (a) the security mentioned in that sub-paragraph; or
- (b) any security issued under the same prospectus as that security.”
- (5) In paragraph 10 of that Schedule (issue of securities in separate tranches), after sub-paragraph (3) there shall be inserted the following sub-paragraph—
- “(4) For the purpose of determining whether a security held by a person who is not connected with the issuer is a relevant discounted security by virtue of this paragraph, a security which—
- (a) is a relevant discounted security, but
- (b) would not be such a security but for paragraph 3(1C)(a) or (1E) above,
- shall be assumed not to be a security falling within sub-paragraph (1)(b) above.”
- (6) In paragraph 13 of that Schedule (excluded indexed securities), after sub-paragraph (8) there shall be inserted the following sub-paragraph—
- “(9) In this paragraph references to redemption, in relation to a security, do not include references to redemption of the security on any such occasion as, by reason of sub-paragraph (1A) of paragraph 3 above, is not to be taken into account for the purpose of determining whether the security is a relevant discounted security by virtue of sub-paragraph (1)(b) of that paragraph.”
- (7) In section 92 of that Act, after subsection (6) there shall be inserted the following subsections—
- “(7) Where an asset representing a creditor relationship of a company—
- (a) ceases at any time to be an asset to which this section applies, but
- (b) does not cease at that time to represent a creditor relationship of that company,
- the company shall be deemed for the purposes of the <sup>M2</sup>Taxation of Chargeable Gains Act 1992 and this Chapter to have disposed of the asset immediately before that time for the relevant consideration, and to have re-acquired it immediately after that time for the relevant consideration.
- (8) Any deemed disposal and re-acquisition under subsection (7) above shall be treated for the purposes of that Act of 1992 as a transaction in the case of which—

*Status: Point in time view as at 27/07/1999.*

*Changes to legislation: Finance Act 1999, Cross Heading: Securities and investments is up to date with all changes known to be in force on or before 25 July 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)*

- (a) sections 127 to 130 of that Act would apply, apart from the provisions of section 116 of that Act, by virtue of any provision of Chapter II of Part IV of that Act;
  - (b) the asset in question represents both the original shares and the new holding for the purposes of those sections;
  - (c) the market value of the asset at the time of the transaction is an amount equal to the relevant consideration.
- (9) Subject to subsection (10) below, in subsections (7) and (8) above “the relevant consideration”, in relation to an asset, means the amount that would have been taken, in accordance with the relevant accounting method, to be the value of the asset at the time of its deemed disposal if that method had been applied to the asset for tax purposes at all times until then.
- (10) Subsection (5) above shall not apply in the case of a deemed disposal and re-acquisition under subsection (7) above; but the amount of the relevant consideration in such a case shall be treated for the purposes of the Taxation of Chargeable Gains Act 1992 as reduced by so much (if any) of the amount mentioned in subsection (9) above as is referable to interest which—
- (a) is not paid or payable to the company before the time of the deemed disposal; but
  - (b) is interest falling to be brought into account under subsections (2) and (3) above as having accrued before that time.
- (11) In subsection (9) above “the relevant accounting method”, in relation to an asset representing a creditor relationship of a company, means the accounting method which, for the accounting period of that company in which the deemed re-acquisition takes place, is used as respects that asset and the part of that accounting period beginning with the deemed re-acquisition.”
- (8) Subject to subsections (9) to (12) below, subsections (1) to (7) above have effect in relation to—
- (a) any transfer of a security on or after 15th February 1999; or
  - (b) any occasion on or after that date on which a person holding a security becomes entitled to any payment on its redemption.
- (9) For the purposes of section 92 of that Act, subsections (1) to (7) above—
- (a) have effect in relation to any accounting period of a company ending on or after 15th February 1999; but
  - (b) do not affect any amount falling to be brought into account in respect of any disposal (in whole or in part) of an asset representing a creditor relationship if the disposal was one completed before that day.
- (10) For the purposes of paragraphs 17 and 18 of Schedule 9 to that Act, subsections (1) to (7) above—
- (a) have effect in relation to any accounting period of a company ending on or after 15th February 1999; but
  - (b) do not affect any amount falling to be brought into account in respect of a security representing a debtor relationship of a company if, on that day, the company was no longer subject to any liability under the relationship.

*Status: Point in time view as at 27/07/1999.*

*Changes to legislation: Finance Act 1999, Cross Heading: Securities and investments is up to date with all changes known to be in force on or before 25 July 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)*

- (11) For the purposes of sections 117(2AA) and 251(8) of the <sup>M3</sup>Taxation of Chargeable Gains Act 1992, subsections (1) to (7) above have effect in relation to any disposal (in whole or in part) of an asset on or after 15th February 1999.
- (12) For the purposes of subsection (1)(c) of section 254 of that Act (which, notwithstanding its repeal by the <sup>M4</sup>Finance Act 1998, continues to have effect in relation to loans made before 17th March 1998), subsections (1) to (7) above have effect in relation to any claim made on or after 15th February 1999.

#### Marginal Citations

- M1** 1996 c.8.  
**M2** 1992 c.12.  
**M3** 1992 c.12.  
**M4** 1998 c.36.

## 66 Qualifying corporate bonds: provision consequential on s. 65. **U.K.**

- (1) This section applies where—
- (a) before 15th February 1999 there occurred a transaction (“the relevant transaction”) to which sections 127 to 130 of the Taxation of Chargeable Gains Act 1992 applied; and
  - (b) the new holding (within the meaning given by section 126 of that Act) consisted of or included something (“the new asset”) that—
    - (i) did not fall to be treated as a qualifying corporate bond in relation to the relevant transaction, but
    - (ii) by virtue of section 65 above, does fall to be so treated in relation to a disposal on or after 15th February 1999.
- (2) Section 116 of the Taxation of Chargeable Gains Act 1992 (reorganisations etc. involving qualifying corporate bonds) shall have effect in relation to any disposal of the whole or part of the new asset on or after 15th February 1999 as if—
- (a) there had been a transaction (“the subsequent transaction”) by which the person holding the new asset had disposed of it and immediately re-acquired it;
  - (b) the subsequent transaction had occurred at the time mentioned in subsection (3) below;
  - (c) the asset re-acquired had been a qualifying corporate bond; and
  - (d) the subsequent transaction had been a transaction to which section 127 of that Act would have applied but for section 116(5) of that Act.
- (3) That time is—
- (a) where the relevant transaction took place before 5th April 1996, that date;
  - (b) where the relevant transaction took place on or after that date, immediately after the relevant transaction.

*Status: Point in time view as at 27/07/1999.*

*Changes to legislation: Finance Act 1999, Cross Heading: Securities and investments is up to date with all changes known to be in force on or before 25 July 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)*

## 67 Deep discount and deep gain securities. **U.K.**

- (1) In paragraph 19 of Schedule 15 to the <sup>M5</sup>Finance Act 1996 (loan relationships: savings and transitional provisions), after sub-paragraph (3) there shall be inserted the following sub-paragraph—
  - “(3A) Any income that is treated as arising at the time mentioned in subsection (5) of that section, as it applies by virtue of sub-paragraph (3) above, shall be brought into account as a non-trading credit given for the purposes of this Chapter for the accounting period in which that time falls.”
- (2) In paragraph 20 of that Schedule, after sub-paragraph (2) there shall be inserted the following sub-paragraph—
  - “(2A) Any income that is treated as arising on the day mentioned in subsection (5) of that section, as it applies by virtue of sub-paragraph (2) above, shall be brought into account as a non-trading credit given for the purposes of this Chapter for the accounting period in which that day falls.”
- (3) In paragraph 19(7) of that Schedule, for paragraph (b) there shall be substituted the following paragraph—
  - “(b) the company did not make any disposal of that security on that date,”.
- (4) In subsection (5)(c) of sections 64 and 65 of the <sup>M6</sup>Finance Act 1993 (which have effect, notwithstanding their repeal by the Finance Act 1996, in relation to deep discount and deep gain securities held on and after 31st March 1996), for “it is transferred by the creditor company” there shall be substituted “the creditor company makes a disposal of the security”.
- (5) After subsection (5) of section 65 of that Act there shall be inserted the following subsection—
  - “(5A) There is a disposal of a security for the purposes of subsection (5)(c) above if there would be such a disposal for the purposes of the <sup>M7</sup>Taxation of Chargeable Gains Act 1992.”
- (6) Subsections (1) and (2) above apply in relation to income treated as arising on or after 15th February 1999.
- (7) Subsection (3) above applies in any case where the day mentioned in paragraph 19(9) of Schedule 15 to the Finance Act 1996 falls on or after 15th February 1999.
- (8) Subsections (4) and (5) above apply for determining whether a time on or after 15th February 1999—
  - (a) is a time falling within section 64(5)(c) of the Finance Act 1993; or
  - (b) is on a day falling within section 65(5)(c) of that Act.

### Marginal Citations

- M5** 1996 c.8.  
**M6** 1993 c.34.  
**M7** 1992 c.12.

*Status: Point in time view as at 27/07/1999.*

*Changes to legislation: Finance Act 1999, Cross Heading: Securities and investments is up to date with all changes known to be in force on or before 25 July 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)*

## 68 Court common investment funds. **U.K.**

(1) After section 469 of the Taxes Act 1988 there shall be inserted the following section—

### “469A Court common investment funds.

- (1) The Tax Acts shall have effect in relation to any common investment fund established under section 42 of the <sup>M8</sup>Administration of Justice Act 1982 (common investment funds for money paid into court) as if—
- (a) the fund were an authorised unit trust;
  - (b) the person who is for the time being the investment manager of the fund were the trustee of that authorised unit trust; and
  - (c) the persons whose interests entitle them, as against the Accountant General, to share in the fund’s investments were the unit holders in that authorised unit trust.
- (2) In this section “the Accountant General” means (subject to subsection (3) below) the Accountant General of the Supreme Court of Judicature in England and Wales or the Accountant General of the Supreme Court of Judicature of Northern Ireland.
- (3) Where in the case of any common investment fund a person other than the Accountant General is authorised by the Lord Chancellor to hold shares in the fund, the reference in subsection (1)(c) above to the Accountant General shall include a reference to that other person.”
- (2) Section 328 of the Taxes Act 1988 (agreements with the Board about the taxation regime for common investment funds) shall cease to have effect.
- (3) Subsections (1) and (2) above have effect in relation to—
- (a) any income arising to a common investment fund on or after 6th April 1999; and
  - (b) any distribution made by such a fund for a distribution period beginning on or after that date.
- (4) For the purposes of the Tax Acts where any common investment fund was in existence on 5th April 1999—
- (a) the distribution period of that fund which was current on that date for the purposes of section 469 of the Taxes Act 1988 shall be taken to have ended with that date; and
  - (b) the fund’s first accounting period for the purposes of corporation tax, and its first distribution period for the purposes of the enactments relating to authorised unit trusts, shall each be taken to have begun with 6th April 1999.
- (5) In this section “common investment fund” means any common investment fund established under section 42 of the Administration of Justice Act 1982.

#### Marginal Citations

M8 1982 c.53.

**Status:**

Point in time view as at 27/07/1999.

**Changes to legislation:**

Finance Act 1999, Cross Heading: Securities and investments is up to date with all changes known to be in force on or before 25 July 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.