



# Finance Act 1999

## 1999 CHAPTER 16

### PART III

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

##### *Chargeable gains*

#### **75 Allowable losses where beneficiary absolutely entitled**

(1) For subsection (2) of section 71 of the Taxation of Chargeable Gains Act 1992 (allowable losses of trustees treated as transferred to a person becoming absolutely entitled to settled property) there shall be substituted the following subsections—

“(2) Where, in any case in which a person (“the beneficiary”) becomes absolutely entitled to any settled property as against the trustee, an allowable loss would (apart from this subsection) have accrued to the trustee on the deemed disposal under subsection (1) above of an asset comprised in that property—

- (a) that loss shall be treated, to the extent only that it cannot be deducted from pre-entitlement gains of the trustee, as an allowable loss accruing to the beneficiary (instead of to the trustee); but
- (b) any allowable loss treated as accruing to the beneficiary under this subsection shall be deductible under this Act from chargeable gains accruing to the beneficiary to the extent only that it can be deducted from gains accruing to the beneficiary on the disposal by him of—
  - (i) the asset on the deemed disposal of which the loss accrued; or
  - (ii) where that asset is an estate, interest or right in or over land, that asset or any asset deriving from that asset.

(2A) In subsection (2) above “pre-entitlement gain”, in relation to an allowable loss accruing to a trustee on the deemed disposal of any asset comprised in any settled property, means a chargeable gain accruing to that trustee on—

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*Status: This is the original version (as it was originally enacted).*

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- (a) a disposal which, on the occasion on which the beneficiary becomes absolutely entitled as against the trustee to that property, is deemed under subsection (1) above to have taken place; or
  - (b) any other disposal taking place before that occasion but in the same year of assessment.
- (2B) For the purposes of subsection (2)(b)(ii) above an asset (“the relevant asset”) derives from another if, in a case where—
- (a) assets have merged,
  - (b) an asset has divided or otherwise changed its nature, or
  - (c) different rights or interests in or over any asset have been created or extinguished at different times,
- the value of the relevant asset is wholly or partly derived (through one or more successive events falling within paragraphs (a) to (c) above but not otherwise) from the other asset.
- (2C) The rules set out in subsection (2D) below shall apply (notwithstanding any other rules contained in this Act or in section 113(2) of the Finance Act 1995 (order of deduction))—
- (a) for determining for the purposes of this section whether an allowable loss accruing to the trustee, or treated as accruing to the beneficiary, can be deducted from particular chargeable gains for any year of assessment; and
  - (b) for the making of deductions of allowable losses from chargeable gains in cases where it has been determined that such an allowable loss can be deducted from particular chargeable gains.
- (2D) Those rules are as follows—
- (a) allowable losses accruing to the trustee on a deemed disposal under subsection (1) above shall be deducted before any deduction is made in respect of any other allowable losses accruing to the trustee in that year;
  - (b) allowable losses treated as accruing to the beneficiary under this section, so far as they cannot be deducted in a year of assessment as mentioned in subsection (2)(b) above, may be carried forward from year to year until they can be so deducted; and
  - (c) allowable losses treated as accruing to the beneficiary for any year of assessment under this section, and allowable losses carried forward to any year of assessment under paragraph (b) above—
    - (i) shall be deducted before any deduction is made in respect of any allowable losses accruing to the beneficiary in that year otherwise than by virtue of this section; and
    - (ii) in the case of losses carried forward to any year, shall be deductible as if they were losses actually accruing in that year.”
- (2) This section applies in relation to any occasion on or after 16th June 1999 on which a person becomes absolutely entitled to settled property as against the trustee.