

*Status: Point in time view as at 10/07/2003. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, Paragraph 109. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 29

#### GAINS AND LOSSES OF A COMPANY FROM INTANGIBLE FIXED ASSETS

##### **Modifications etc. (not altering text)**

**C1** Sch. 29 applied (with modifications) (15.8.2002) by [S.I. 2002/1967](#), **regs. 3-6**

### PART 13

#### SUPPLEMENTARY PROVISIONS

##### *Asset ceasing to be chargeable intangible asset: postponement of gain in certain cases*

109 (1) Where—

- (a) paragraph 108 (asset ceasing to be chargeable asset: deemed realisation at market value) applies by reason of a company (“company A”) ceasing to be resident in the United Kingdom,
- (b) immediately before company A ceases to be resident in the United Kingdom the asset is held by it for the purposes of a trade carried on by it outside the United Kingdom through a [<sup>F1</sup>permanent establishment] ,
- (c) the proceeds of the deemed realisation of the asset exceed the original cost of the asset recognised for tax purposes,
- (d) immediately after company A ceases to be resident in the United Kingdom it is a 75% subsidiary of another company (“company B”) that is resident in the United Kingdom, and
- (e) company A and company B so elect by notice given to the Inland Revenue not later than two years after the date when company A ceased to be resident in the United Kingdom,

this Schedule has effect as if the proceeds of the deemed realisation of the asset were reduced by the amount of the excess referred to in paragraph (c).

The amount of the reduction is referred to below in this paragraph as “the postponed gain”.

- (2) If company A subsequently realises the asset before the end of the period of six years after the date on which the company ceased to be resident in the United Kingdom, company B shall bring into account for tax purposes a credit equal to the postponed gain or, in the case of a part realisation, the appropriate proportion of the postponed gain.

The appropriate proportion is given by:

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$$\frac{\text{Old Value} - \text{New Value}}{\text{Old Value}}$$

where—

Old Value is the market value of the asset immediately before the part realisation, and

New Value is the market value of the asset immediately after the part realisation.

- (3) Sub-paragraph (2) does not apply—
- (a) to the extent that the postponed gain has already been brought into account on a previous part realisation, or
  - (b) if the postponed gain has already been brought into account under sub-paragraph (4).
- (4) If at any time after company A ceases to be resident in the United Kingdom—
- (a) it ceases to be a 75% subsidiary of company B on the disposal by that company of ordinary shares of company A, or
  - (b) after it has ceased to be such a subsidiary otherwise than on such a disposal, company B disposes of such shares, or
  - (c) company B ceases to be resident in the United Kingdom,
- company B shall bring into account for tax purposes a credit equal to the postponed gain.
- This sub-paragraph does not apply if, or to the extent that, the postponed gain has already been brought into account under sub-paragraph (2).
- (5) Any credit falling to be brought into account under sub-paragraph (4)(c) shall be brought into account immediately before company B ceases to be resident in the United Kingdom.
- (6) A credit brought into account by company B under this paragraph is treated as a non-trading credit for the purposes of Part 6 (how debits and credits are given effect).

#### Textual Amendments

- F1** Words in Sch. 29 para. 109(1)(b) substituted (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 153\(1\)\(e\)](#)

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