# Income Tax (Trading and Other Income) Act 2005

**2005 CHAPTER 5**

## PART 4

SAVINGS AND INVESTMENT INCOME

## CHAPTER 8

PROFITS FROM DEEPLY DISCOUNTED SECURITIES

*Calculating profits*

### 439 Calculating the profit from disposals

(1) A person's profit on a disposal is the amount by which the amount payable on the disposal exceeds the amount paid by the person to acquire the security.

(2) No account is to be taken of any incidental expenses incurred in connection with the disposal or acquisition.

(3) Subsection (2) is subject to subsection (4) and section 455 (listed securities held since 26th March 2003: calculating the profit or loss on disposals).

(4) Incidental expenses incurred before 27th March 2003 by the person making the disposal in connection with the acquisition or disposal of the security are deducted from the person's profit.

(5) Where a person re-acquires a security, any previous acquisition of it is ignored in determining on a subsequent disposal—
- (a) the amount the person paid to acquire the security, and
- (b) incidental expenses within subsection (4).

## 440 Market value disposals

(1) On the disposal of a deeply discounted security by a transfer of a kind specified in subsection (2), for the purposes of this Chapter an amount equal to the market value at the time of the disposal is treated as payable.

(2) The transfers are—

(a) a transfer made otherwise than by a bargain at arm's length,

(b) a transfer between connected persons,

(c) a transfer for a consideration which is not wholly in money or money's worth,

(d) a transfer treated as made by section 437(3) (death), and

(e) a transfer by personal representatives to a legatee.

(3) Subsection (1) is subject to subsection (4).

(4) On a conversion of a deeply discounted security into shares or other securities which counts as its disposal under section 437(1), an amount equal to the market value of the shares or other securities at the time of the conversion is treated as the amount payable.

**[**[F1](5) Subsection (4) is subject to—

section 445(8) (exchanges for and consolidations of strips);

section 452F(5) (conversion into and consolidations of corporate strips).**]**

(6) In this section "legatee" includes any person taking (whether beneficially or as trustee) —

(a) on a testamentary disposition, or

(b) on an intestacy or partial intestacy.

(7) Such a person includes a person taking as a result of an appropriation by personal representatives in or towards the satisfaction of a legacy or other interest or share in the deceased's property.

**Textual Amendments**

**F1** S. 440(5) substituted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(5)(10)**

## 441 Market value acquisitions

(1) A person who acquires a deeply discounted security on a disposal of a kind specified in subsection (2) is treated for the purposes of this Chapter as acquiring it by the payment of an amount equal to its market value at the time of the disposal.

(2) The disposals are—

(a) a transfer within section 440(2), and

(b) a conversion of a deeply discounted security into other deeply discounted securities which counts as its disposal under section 437(1).

**[**[F2](3) Subsection (2) is subject to—

section 445(8) (exchanges for and consolidations of strips);

section 452F(5) (conversion into and consolidations of corporate strips).**]**

**Textual Amendments**

**F2** S. 441(3) substituted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(6)(10)**

## 442 Securities issued in accordance with qualifying earn-out right

(1) This section applies if a security is issued to a person in accordance with the terms of a qualifying earn-out right.

(2) The amount paid by the person to acquire the security is to be taken for the purposes of this Chapter to be the total of—
- (a) the market value, immediately before the issue, of the right to be issued with the security in accordance with the terms of the qualifying earn-out right, and
- (b) any amount payable for the issue in accordance with those terms.

(3) In this section "qualifying earn-out right" means a right that meets conditions A to C, or so much of a right as does so.

(4) Condition A is that the right constitutes the whole or part of the consideration for—
- (a) the transfer by the person on whom the right is conferred of shares in or debentures of a company, or
- (b) the transfer of the whole or part of—
  - (i) a business carried on by that person, or by that person and others in partnership, or
  - (ii) an interest in such a business.

(5) Condition B is that the right is either—
- (a) a right to be issued with securities of another company, or
- (b) a right which is capable of being discharged in accordance with its terms by the issue of such securities.

(6) Condition C is that the right is such that the value of the consideration mentioned in condition A is unascertainable at the time when the right is conferred.