
STATUTORY INSTRUMENTS

1992 No. 58

**The Ports Act 1991 (Levy on
Disposals of Land, etc.) Order 1992**

OPTIONS

Options—Computation of gains

27.—(1) This article applies to a disposal of relevant land or a relevant interest in land constituted by the grant by a member of the chargeable company's group of an option to acquire that land or interest in land.

(2) The amount of any gain accruing or regarded as accruing for the purposes of section 17 of the 1991 Act and this order on a disposal to which this article applies shall be equal to the amount of the gain which would accrue on the exercise of the option if the option were exercised on the date on which it is granted or, if the option is not exercisable on that date, on the earliest date thereafter on which it could be exercised.

(3) Where the consideration payable on the exercise of the option (or any part of the consideration) is unascertainable at the time the amount of any gain falls to be computed under paragraph (2) above, then, in the computation of that amount under that paragraph, the consideration shall (so far as unascertainable at that time) be taken to be the highest amount which could reasonably be expected to be paid; and if the right to receive any part of the consideration depends on a contingency, it shall be assumed that the contingency will occur.

Options—Payment of levy

28. The levy chargeable on a disposal to which article 27 applies shall be payable—

- (a) as regards the amount which would have been payable but for paragraph (2) of article 27, within the period beginning with the date of grant of the option and ending on the quarter date next following that date;
- (b) as regards the remainder, within the period beginning with the date of grant of the option and ending with the annual reporting date relating to the last disposal period of the chargeable company.

Options—Subsequent exercise

29. If a chargeable company becomes liable to pay levy in respect of the grant of an option and that option is exercised within the levy period, then the disposal constituted by the grant of the option shall be treated as if article 27 had not applied to it, and any gain accruing or regarded as accruing on the disposal shall be recomputed accordingly.

Option lapsing—Recomputation

30. If an option the grant of which constitutes a disposal to which article 27 applies lapses (without being exercised) or becomes incapable of being exercised, the gain accruing on that disposal shall be recomputed as if paragraph (2) of article 27 had not applied.

Option lapsing—Supplementary

31.—(1) If a gain falls to be recomputed in accordance with article 30, and—

- (a) if the time at which the gain falls to be recomputed is within the levy period, details of the recomputation shall be provided to the appropriate Minister together with the disposal statement for the disposal period in which the event giving rise to the recomputation took place; or
- (b) if the time at which the gain falls to be recomputed is outside the levy period, the chargeable company shall as soon as may be practicable provide details of the recomputation to the appropriate Minister.

(2) Upon receipt of details of the recomputation the appropriate Minister shall inquire into the matter and, if an excessive payment has been made by the chargeable company, the amount thereof (whether levy or interest on unpaid levy or both) shall be repaid as provided in article 32.

Option lapsing etc.—Repayment

32. If—

- (a) the amount of the gain accruing on a disposal constituted by the grant of an option to which article 27 applies has been recomputed under article 29 or 30; and
- (b) the chargeable company has paid levy on the amount of the gain as computed in accordance with article 27;

the appropriate Minister shall repay to the chargeable company—

- (i) in the case of a recomputation under article 29, the amount of levy and interest thereon which has been paid;
- (ii) in the case of a recomputation under article 30, an amount equal to the difference between—
 - (A) the amount of levy and interest thereon which has been paid; and
 - (B) the levy which would have been payable on the gain as recomputed in accordance with article 30, and interest thereon at the same rate or rates and over the same period as any interest paid on the amount of levy paid;

and the time within which the Minister shall do so shall be—

- (I) in the case of a recomputation under article 29, within 20 business days of receipt by him of the disposal statement in respect of the period in which the option was exercised;
- (II) in the case of a recomputation under article 30—
 - (IIA) if the option lapsed or became incapable of being exercised within the levy period, within 20 business days of receipt by him of the disposal statement referred to in sub-paragraph (a) of paragraph (1) of article 31;
 - (IIB) in any other case, within 20 business days of the receipt by him of details of the recomputation or, if he reasonably requests the chargeable company to supply further information for the purpose of his inquiry into the matter pursuant to article 31(2), within 20 such days of receiving such further information.