Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART II

GENERAL PROVISIONS RELATING TO COMPUTATION OF GAINS AND ACQUISITIONS AND DISPOSALS OF ASSETS

CHAPTER IV

COMPUTATION OF GAINS: THE INDEXATION ALLOWANCE

General

53 The indexation allowance and interpretative provisions

(1) Subject to any provision to the contrary, an allowance ("the indexation allowance") shall, on the disposal of an asset, either be set against the unindexed gain or, as the case may be, added to the unindexed loss so as to give the gain or loss for the purposes of this Act as follows—

(a) if there is an unindexed gain, the indexation allowance shall be deducted from the gain and, if the allowance exceeds the unindexed gain, the excess shall constitute a loss;

(b) if there is an unindexed loss, the indexation allowance shall be added to it so as to increase the loss; and

(c) if the unindexed gain or loss is nil, there shall be a loss equal to the indexation allowance;

and any reference in this Act to an indexation allowance or to the making of an indexation allowance shall be construed accordingly.

(2) For the purposes of subsection (1) above, in relation to any disposal of an asset—

(a) "the unindexed gain or loss" means the amount of the gain or loss on the disposal computed in accordance with this Part, and, if neither a gain nor a loss on the disposal is so given, the unindexed gain or loss shall be nil; and

(b) "relevant allowable expenditure" means, subject to subsection (3) below, any sum which, in the computation of the unindexed gain or loss was taken into account by virtue of paragraph (a) or paragraph (b) of section 38(1).

(3) In determining what sum (if any) was taken into account as mentioned in subsection (2)(b) above, account shall be taken of any provision of any enactment which, for the purpose of the computation of the gain, increases, excludes or reduces the whole or any part of any item of expenditure falling within section 38 or provides for it to be written-down.

(4) Sections 54 and 108 and this section have effect subject to sections 56, 57, 109, 110, 113, 131 and 145.

54 Calculation of indexation allowance

(1) Subject to any provision to the contrary, the indexation allowance is the aggregate of the indexed rise in each item of relevant allowable expenditure; and, in relation to any such item of expenditure, the indexed rise is a sum produced by multiplying the amount of that item by a figure expressed as a decimal and determined, subject to subsections (2) and (3) below, by the formula—

$$\frac{(RD-RI)}{RI}$$

where—

RD is the retail prices index for the month in which the disposal occurs; and

RI is the retail prices index for March 1982 or the month in which the expenditure was incurred, whichever is the later.

(2) If, in relation to any item of expenditure—

(a) the expenditure is attributable to the acquisition of relevant securities, within the meaning of section 108, which are disposed of within the period of 10 days beginning on the day on which the expenditure was incurred, or

(b) RD, as defined in subsection (1) above, is equal to or less than RI, as so defined,

the indexed rise in that item is nil.

(3) If, in relation to any item of expenditure, the figure determined in accordance with the formula in subsection (1) above would, apart from this subsection, be a figure having more than 3 decimal places, it shall be rounded to the nearest third decimal place.

(4) For the purposes of this section—

(a) relevant allowable expenditure falling within paragraph (a) of subsection (1) of section 38 shall be assumed to have been incurred at the time when the asset in question was acquired or provided; and

(b) relevant allowable expenditure falling within paragraph (b) of that subsection shall be assumed to have been incurred at the time when that expenditure became due and payable.

55 Assets owned on 31st March 1982 or acquired on a no gain/no loss disposal

(1) For the purpose of computing the indexation allowance on a disposal of an asset where, on 31st March 1982, the asset was held by the person making the disposal, it shall be

assumed that on that date the asset was sold by the person making the disposal and immediately reacquired by him at its market value on that date.

(2) Except where an election under section 35(5) has effect, neither subsection (1) above nor section 35(2) shall apply for the purpose of computing the indexation allowance in a case where that allowance would be greater if they did not apply.

(3) If under subsection (1) above it is to be assumed that any asset was on 31st March 1982 sold by the person making the disposal and immediately reacquired by him, sections 41 and 47 shall apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by him in providing the asset as if it were made in respect of expenditure which, on that assumption, was incurred by him in reacquiring the asset on 31st March 1982.

(4) Where, after 31st March 1982, an asset which was held on that date has been merged or divided or has changed its nature or rights in or over the asset have been created, then, subject to subsection (2) above, subsection (1) above shall have effect to determine for the purposes of section 43 the amount of the consideration for the acquisition of the asset which was so held.

(5) Subsection (6) below applies to a disposal of an asset which is not a no gain/no loss disposal if—

(a) the person making the disposal acquired the asset after 31st March 1982; and

(b) the disposal by which he acquired the asset and any previous disposal of the asset after 31st March 1982 was a no gain/no loss disposal;

and for the purposes of this subsection a no gain/no loss disposal is one on which, by virtue of section 257(2) or 259(2) or any of the enactments specified in section 35(3)(d), neither a gain nor a loss accrues (or accrued) to the person making the disposal.

(6) Where this subsection applies to a disposal of an asset—

(a) the person making the disposal shall be treated for the purpose of computing the indexation allowance on the disposal as having held the asset on 31st March 1982; and

(b) for the purpose of determining any gain or loss on the disposal, the consideration which, apart from this subsection, that person would be treated as having given for the asset shall be taken to be reduced by deducting therefrom any indexation allowance brought into account by virtue of section 56(2) on any disposal falling within subsection (5)(b) above.

56 Part disposals and disposals on a no-gain/no-loss basis

(1) For the purpose of determining the indexation allowance (if any) on the occasion of a part disposal of an asset, the apportionment under section 42 of the sums which make up the relevant allowable expenditure shall be effected before the application of section 54 and, accordingly, in relation to a part disposal—

(a) references in section 54 to an item of expenditure shall be construed as references to that part of that item which is so apportioned for the purposes of the computation of the unindexed gain or loss on the part disposal; and

(b) no indexation allowance shall be determined by reference to the part of each item of relevant allowable expenditure which is apportioned to the property which remains undisposed of.

(2) On the disposal of an asset which, by virtue of any enactment, is treated as one on which neither a gain nor a loss accrues to the person making the disposal ("the transferor")—

(a) the amount of the consideration shall be calculated for the purposes of this Act on the assumption that, on the disposal, an unindexed gain accrues to the transferor which is equal to the indexation allowance on the disposal, and

(b) the disposal shall accordingly be one on which, after taking account of the indexation allowance, neither a gain nor a loss accrues;

and for the purposes of the application of sections 53 and 54 there shall be disregarded so much of any enactment as provides that, on the subsequent disposal of the asset by the person acquiring the asset on the disposal ("the transferee"), the transferor's acquisition of the asset is to be treated as the transferee's acquisition of it.

57 Receipts etc. which are not treated as disposals but affect relevant allowable expenditure

(1) This section applies where, in determining the relevant allowable expenditure in relation to a disposal of an asset, account is required to be taken, as mentioned in section 53(3), of any provision of any enactment which, by reference to a relevant event, reduces the whole or any part of an item of expenditure as mentioned in that subsection.

(2) For the purpose of determining, in a case where this section applies, the indexation allowance (if any) to which the person making the disposal is entitled, no account shall in the first instance be taken of the provision referred to in subsection (1) above in calculating the indexed rise in the item of expenditure to which that provision applies but, from that indexed rise as so calculated, there shall be deducted a sum equal to the indexed rise (determined as for the purposes of the actual disposal) in a notional item of expenditure which—

(a) is equal to the amount of the reduction effected by the provision concerned; and

(b) was incurred on the date of the relevant event referred to in subsection (1) above.

(3) In this section "relevant event" means any event which does not fall to be treated as a disposal for the purposes of this Act.