
Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

SCHEDULES.

SCHEDULE 13

CHARGEABLE GAINS OF COMPANIES.

PART I

GROUPS OF COMPANIES.

Interpretation.

- 1 For purposes of this Part of this Schedule—
- (a) references to a company apply only to a company resident in the United Kingdom, and only to a company within the meaning of the Companies Act 1948 or the corresponding enactment in force in Northern Ireland and to a registered industrial and provident society within the meaning of section 442 of the Income Tax Act 1952 ;
 - (b) a principal company and all its subsidiaries form a group, and where a principal company is a member of a group as being itself a subsidiary, that group shall comprise all its subsidiaries;
 - (c) " subsidiary " has the meaning assigned to it for certain purposes of the profits tax by section 42 of the Finance Act 1938 except that in the application of that section any share capital of a registered industrial and provident society shall be treated as within the definition of ordinary share capital, and " principal company " means a company of which another company is a subsidiary.

Transfers within the group.

- 2 (1) Notwithstanding any provision in Part III of this Act fixing the amount of the consideration deemed to be received on a disposal or given on an acquisition, where a member of a group of companies disposes of an asset to another member of the group, both members shall, except as provided by sub-paragraphs (2) and (3) below, be treated, so far as relates to corporation tax on chargeable gains, as if the asset acquired by the member to whom the disposal is made were acquired for a consideration of such amount as would secure that on the other's disposal neither a gain nor a loss would accrue to that other ; but where it is assumed for any purpose that a member of a group of companies has sold or acquired an asset, it shall be assumed also that it was not a sale to or acquisition from another member of the group.
- (2) Sub-paragraph (1) above shall not apply where the disposal is—
- (a) a disposal of a debt due from a member of a group of companies effected by satisfying the debt or part of it; or
 - (b) a disposal of redeemable shares in a company on the occasion of their redemption;

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

and the reference in that sub-paragraph to a member of a group of companies disposing of an asset shall not apply to anything which under Schedule 7 to this Act is to be treated as a disposal of an interest in shares in a company in consideration for a capital distribution (as defined in paragraph 3 of that Schedule) from that company, whether or not involving a reduction of capital.

- (3) For the purposes of sub-paragraph (1) above, so far as the consideration for the disposal consists of money or money's worth by way of compensation for any kind of damage or injury to assets, or for the destruction or dissipation of assets or for anything which depreciates or might depreciate an asset, the disposal shall be treated as being to the person who, whether as an insurer or otherwise, ultimately bears the burden of furnishing that consideration.
- 3 (1) Where a member of a group of companies acquires an asset as trading stock from another member of the group, and the asset did not form part of the trading stock of any trade carried on by the other member, the member acquiring it shall be treated for purposes of paragraph 1 of Schedule 7 to this Act as having acquired the asset otherwise than as trading stock and immediately appropriated it for the purposes of the trade as trading stock.
- (2) Where a member of a group of companies disposes of an asset to another member of the group, and the asset formed part of the trading stock of a trade carried on by the member disposing of it but is acquired by the other member otherwise than as trading stock of a trade carried on by it, the member disposing of the asset shall be treated for purposes of paragraph 1 of Schedule 7 to this Act as having immediately before the disposal appropriated the asset for some purpose other than the purpose of use as trading stock.

Disposal or acquisition outside the group.

- 4 Where a member of a group of companies disposes of an asset acquired from another member of the group, paragraph 6 of Schedule 6 to this Act shall apply in relation to any capital allowances made to the other member (so far as not taken into account in relation to a disposal of the asset by that other member), and so on as respects previous transfers of the asset between members of the group (but this shall not be taken as affecting the consideration for which an asset is deemed under paragraph 2(1) above to be acquired).
- 5 Part II of Schedule 6 to this Act shall apply in relation to a disposal of an asset by a member of a group of companies which acquired the asset from another member of the group, as if all members of the group for the time being were the same person, and as if the acquisition or provision of the asset by the group, so taken as a single person, had been the acquisition or provision of it by the member disposing of it.
- 6 For purposes of the provisions of this Act relating to capital gains tax in connection with the replacement of trade assets, all the trades carried on by members of a group of companies shall be treated as a single trade (unless it is a case of one member of the group acquiring, or acquiring the interest in, the new assets from another or disposing of, or of the interest in, the old assets to another).

Recovery of tax.

- 7 (1) If at any time a chargeable gain accrues to a company which at that time is a member of a group of companies and any of the corporation tax assessed on the company for the accounting period in which the chargeable gain accrues is not paid within six

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

months from the date when it becomes payable by the company, then, if the tax so assessed included any amount in respect of chargeable gains.—

- (a) a company which was at that time when the gain accrued the principal company of the group ; and
- (b) any other company which in any part of the period of two years ending with that time was a member of the said group of companies and owned the asset disposed of or any part of it, or where that asset is an interest or right in or over another asset, owned either asset or any part of either asset;

may at any time within two years from the time when the tax became payable be assessed and charged (in the name of the company to whom the chargeable gain accrued) to an amount of that corporation tax not exceeding corporation tax on the amount of that gain at the rate in force when the gain accrued.

- (2) A company paying any amount of tax under the foregoing sub-paragraph shall be entitled to recover a sum of that amount—
 - (a) from the company to which the capital gain accrued ; or
 - (b) if that company is not the company which was the principal company of the group at the time when the capital gain accrued, from that principal company ;

and a company paying any amount under paragraph (b) shall be entitled to recover a sum of that amount from the company to which the capital gain accrued, and so far as it is not so recovered, to recover from any company which is for the time being a member of the group and which has while a member of the group owned the asset disposed of or any part of it (or where that asset is an interest or right in or over another asset, owned either asset or any part of it) such proportion of the amount unrecovered as is just having regard to the value of the asset at the time when the asset, or an interest or right in or over it, was disposed of by that company.