



Finance Act 1977

1977 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

43 Capital gains: value-shifting

- (1) This section has effect as respects the disposal of an asset if a scheme has been effected or arrangements have been made (whether before or after the disposal) whereby—
 - (a) the value of the asset has been materially reduced ; and
 - (b) a tax-free benefit has been or will be conferred—
 - (i) on the person making the disposal or a person with whom he is connected; or
 - (ii) subject to subsection (3) below, on any other person.
- (2) For the purposes of subsection (1)(b) above a benefit is conferred on a person if he becomes entitled to any money or money's worth or the value of any asset in which he has an interest is increased or he is wholly or partly relieved from any liability to which he is subject; and a benefit is tax-free unless it is required, on the occasion on which it is conferred on the person in question, to be brought into account in computing his income, profits or gains for the purposes of income tax, capital gains tax or corporation tax.
- (3) This section shall not apply by virtue of subsection (1)(b)(ii) above if it is shown that avoidance of tax was not the main purpose or one of the main purposes of the scheme or arrangements in question.
- (4) Where this section has effect in relation to any disposal, any allowable loss or chargeable gain accruing on the disposal shall be calculated as if the consideration for the disposal were increased by such amount as appears to the inspector, or on appeal the Commissioners concerned, to be just and reasonable having regard to the scheme or arrangements and the tax-free benefit in question.
- (5) Where—

Status: This is the original version (as it was originally enacted).

- (a) by virtue of subsection (4) above the consideration for the disposal of an asset has been treated as increased ; and
- (b) the benefit taken into account under subsection (1)(b) above was an increase in the value of another asset,

any allowable loss or chargeable gain accruing on the first disposal of the other asset after the increase in its value shall be calculated as if the consideration for that disposal were reduced by such amount as appears to the inspector, or on appeal the Commissioners concerned, to be just and reasonable having regard to the scheme or arrangements in question and the increase made in relation to the disposal mentioned in paragraph (a) above.

- (6) References in this section to a disposal do not include references to any disposal falling within—
 - (a) section 24(7) of the Finance Act 1965 (disposals by personal representatives to legatees); or
 - (b) paragraph 20(1) of Schedule 7 to that Act (disposals between husband and wife); or
 - (c) section 273(1) of the Taxes Act (disposals within a group of companies).
- (7) In relation to the disposal by a company of an asset consisting of shares in another company the reference in subsection (1)(a) above to a reduction in the value of the asset does not include a reference to any reduction attributable to—
 - (a) the payment of a dividend by the second company at a time when it and the first company are members of the same group of companies within the meaning of section 272 of the Taxes Act; or
 - (b) the disposal of any asset by the second company at such a time, being a disposal falling within section 273(1) of that Act.
- (8) In relation to a case in which the disposal of an asset precedes its acquisition the reference in subsection (1)(a) above to a reduction shall be read as including a reference to an increase.
- (9) This section applies where the disposal and reduction in value mentioned in subsection (1) above (or, in a case within subsection (8) above, the disposal and reduction or increase in value) are after 29th March 1977.