



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VI

COMPANIES, OIL, INSURANCE ETC.

CHAPTER I

COMPANIES

Restriction on indexation allowance for groups and associated companies

182 Disposals of debts

- (1) Subject to subsection (3) below, where—
 - (a) there is a disposal by a company of a linked company debt on a security owed by another company, and
 - (b) the 2 companies are linked companies immediately before the disposal, there shall be no indexation allowance on the disposal.
- (2) Subject to subsection (3) below, where—
 - (a) there is a disposal by a company of a debt on a security owed by another company which is not a linked company debt on a security, and
 - (b) the 2 companies are linked companies immediately before the disposal, then, in ascertaining any indexation allowance due on the disposal, RD as defined in section 54(1) shall be taken as the retail price index for the first month after the acquisition of the debt in which the 2 companies were linked companies (or, if later, March 1982).
- (3) Where—
 - (a) there is a disposal by a company of a debt on a security owed by another company,

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- (b) the debt constituted or formed part of the new holding received by the company making the disposal on a reorganisation, and
- (c) subsection (1) or (2) above would apply in relation to the disposal but for this subsection,

neither of those subsections shall apply in relation to the disposal, but any indexation allowance which, apart from this subsection, would be due on the disposal shall be reduced by such amount as appears to the inspector, or, on appeal, the Commissioners concerned, to be just and reasonable.

- (4) For the purposes of this section a debt on a security owed by a company is a linked company debt on a security where immediately after its acquisition by the company making the disposal the 2 companies were linked companies.
- (5) Where—
 - (a) there is a disposal by a company of a debt on a security owed by any person,
 - (b) the company and that person are not linked companies immediately before the disposal, and
 - (c) the debt was incurred by that person as part of arrangements involving another company being put in funds,

subsections (1) to (4) above shall have effect if and to the extent that they would if the debt were owed by that other company.

183 Disposals of shares

- (1) This section applies—
 - (a) where there is a disposal by a company of—
 - (i) a holding of redeemable preference shares of another company, or
 - (ii) a holding of shares, other than redeemable preference shares, of another company which has at all times consisted entirely of, or has at any time included, linked company shares, or
 - (b) where—
 - (i) there is a disposal by a company of a holding of shares of another company which is not a holding falling within paragraph (a) above,
 - (ii) the holding constituted or formed part of the new holding received by the company making the disposal on a reorganisation, and
 - (iii) but for section 127 that reorganisation (or in a case where the holding disposed of derives, in whole or in part, from assets which were original shares in relation to an earlier reorganisation, that reorganisation or any such earlier reorganisation) would have involved a disposal in relation to which section 182(1) would have applied or this section would have applied by virtue of paragraph (a) above,

if the 2 companies are linked companies immediately before the disposal.

- (2) Where this section applies, any indexation allowance which, apart from this section, would be due on the disposal shall be reduced by such amount as appears to the inspector, or on appeal the Commissioners concerned, to be just and reasonable.
- (3) For the purposes of this section, shares of a company are linked company shares where—

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- (a) immediately after their acquisition by the company making the disposal the 2 companies were linked companies,
 - (b) their acquisition by the company making the disposal was wholly or substantially financed by one or more linked company loans or linked company funded subscriptions (or by a combination of such loans and subscriptions), and
 - (c) the sole or main benefit which might have been expected to accrue from that acquisition was the obtaining of an indexation allowance on a disposal of the shares.
- (4) In subsection (3) above—
- “linked company loan” means a loan made to the company making the disposal by another company where immediately after the acquisition of the shares by the company making the disposal the 2 companies were linked companies, and
- “linked company funded subscription” means a subscription for shares in the company making the disposal by another company where—
- (a) immediately after the acquisition of the shares by the company making the disposal those 2 companies were linked companies, and
 - (b) the subscription was wholly or substantially financed, either directly or indirectly, by one or more linked company subscription-financing loans.
- (5) In subsection (4) above “linked company subscription-financing loan” means a loan made by a company to the subscribing company or any other company where immediately after the acquisition of the shares by the company making the disposal—
- (a) the company making the loan, and
 - (b) the subscribing company, and
 - (c) where the company to which the loan was made was not the subscribing company, that company,
- were linked companies.

184 Definitions and other provisions supplemental to sections 182 and 183

- (1) For the purposes of this section and sections 182 and 183 companies are linked companies if they are members of the same group or are associated with each other; and for the purposes of this section—
- (a) “group” means a company which has one or more 51 per cent. subsidiaries together with that subsidiary or those subsidiaries (section 838 (meaning of 51 per cent. subsidiary) of the Taxes Act having effect for the purposes of this paragraph as for those of the Tax Acts), and
 - (b) 2 companies are associated with each other if one controls the other or both are under the control of the same person or persons (section 416(2) to (6) (meaning of control) of the Taxes Act having effect for the purposes of this paragraph as for those of Part XI of that Act).
- (2) Where a disposal of a holding of shares follows one or more disposals of the same holding to which section 171(1) or 172 applied, section 183(3) to (5) shall have effect as if the references to the company making the disposal were references to the company which last acquired the asset otherwise than on a disposal to which either of those sections applied.

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- (3) In section 183 “redeemable preference shares” means shares in a company which are described as such in the terms of their issue or which fulfil the condition in paragraph (a) below and either or both of the conditions in paragraphs (b) and (c) below—
- (a) that, as against other shares in the company, they carry a preferential entitlement to a dividend or to any assets in a winding up or both;
 - (b) that, by virtue of the terms of their issue, the exercise of a right by any person or the existence of any arrangements, they are liable to be redeemed, cancelled or repaid, in whole or in part;
 - (c) that, by virtue of any arrangements—
 - (i) to which the company which issued the shares is a party, or
 - (ii) where that company and another company are linked companies at the time of the issue, to which that other company is a party,the holder has a right to require another person to acquire the shares or is obliged in any circumstances to dispose of them or another person has a right or is in any circumstances obliged to acquire them;
- and for the purposes of paragraph (a) above shares are to be treated as carrying a preferential entitlement to a dividend as against other shares if, by virtue of any arrangements, there are circumstances in which a minimum dividend will be payable on those shares but not on others.
- (4) In sections 182 and 183 the expressions “reorganisation”, “original shares” and “new holding” have the meanings given by section 126 except that, in a case where sections 127 and 128 apply in circumstances other than a reorganisation (within the meaning of section 126) by virtue of any other provision of Chapter II of Part IV those expressions shall be construed as they fall to be construed in sections 127 and 128 as they so apply.
- (5) In this section and sections 182 and 183—
- “holding”, in relation to shares, means a number of shares which are to be regarded for the purposes of this Act as indistinguishable parts of a single asset,
 - “security” has the same meaning as in section 132.