



Finance Act 1993

1993 CHAPTER 34

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

EXCHANGE GAINS AND LOSSES

Currency contracts: special cases

146 Early termination of currency contract

- (1) This section applies where—
 - (a) a qualifying company ceases to be entitled to rights and subject to duties under a currency contract, and
 - (b) at the time it so ceases it has neither received nor made payment of any currency in pursuance of the contract.
- (2) If the company has a net contractual gain of a trade it shall be treated for the purposes of the Tax Acts as—
 - (a) incurring in the trade a loss of an amount equal to that gain, and
 - (b) incurring the loss in respect of the last relevant accounting period.
- (3) If the company has a net contractual loss of a trade it shall be treated for the purposes of the Tax Acts as—
 - (a) receiving in respect of the trade an amount equal to that loss, and
 - (b) receiving the amount in respect of the last relevant accounting period.
- (4) If the company has a net contractual non-trading gain—
 - (a) it shall be treated as incurring by virtue of section 129 above a loss of an amount equal to the amount of that gain,

Status: This is the original version (as it was originally enacted).

- (b) it shall be treated as incurring the loss in the last relevant accounting period, and
 - (c) in relation to that accounting period references to amount B shall be construed accordingly.
- (5) If the company has a net contractual non-trading loss—
 - (a) it shall be treated as receiving by virtue of section 129 above an amount equal to the amount of that loss,
 - (b) it shall be treated as receiving the amount in the last relevant accounting period, and
 - (c) in relation to that accounting period references to amount A shall be construed accordingly.
- (6) For the purposes of this section—
 - (a) the termination time is the time mentioned in subsection (1)(b) above;
 - (b) the last relevant accounting period is the company's accounting period in which the termination time falls;
 - (c) the relevant accounting periods are that accounting period and the company's accounting periods preceding it.
- (7) This is how to find out whether the company has a net contractual gain or loss of a trade and (if it has) its amount—
 - (a) take the aggregate of the amounts (if any) the company is treated as receiving under section 128(4) above in respect of the trade and the contract and the relevant accounting periods;
 - (b) take the aggregate of the amounts (if any) of the losses the company is treated as incurring under section 128(8) above in the trade and in respect of the contract and the relevant accounting periods;
 - (c) if the amount found under paragraph (a) above exceeds that found under paragraph (b) above the company has a net contractual gain of the trade of an amount equal to the excess;
 - (d) if the amount found under paragraph (b) above exceeds that found under paragraph (a) above the company has a net contractual loss of the trade of an amount equal to the excess;and in applying paragraphs (a) and (b) above ignore the effect of subsections (2) and (3) above.
- (8) This is how to find out whether the company has a net contractual non-trading gain or loss and (if it has) its amount—
 - (a) take the aggregate of the amounts (if any) the company is treated as receiving under section 129(2) above in respect of the contract in the relevant accounting periods;
 - (b) take the aggregate of the amounts (if any) of the losses the company is treated as incurring under section 129(4) above in respect of the contract in the relevant accounting periods;
 - (c) if the amount found under paragraph (a) above exceeds that found under paragraph (b) above the company has a net contractual non-trading gain of an amount equal to the excess;
 - (d) if the amount found under paragraph (b) above exceeds that found under paragraph (a) above the company has a net contractual non-trading loss of an amount equal to the excess;

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

- and in applying paragraphs (a) and (b) above ignore the effect of subsections (4) and (5) above.
- (9) For the purposes of subsection (7) above—
- (a) an amount the company is treated as receiving under section 128(4) above in respect of part of the trade concerned shall be treated as received in respect of the trade;
 - (b) a loss the company is treated as incurring under section 128(8) above in part of the trade shall be treated as incurred in the trade.
- (10) Where any amount or loss the company is treated as receiving or incurring as mentioned in subsection (7)(a) or (b) above would (apart from this subsection) be expressed in a currency other than the local currency of the trade for the last relevant accounting period, it shall be treated for the purposes of this section as being the local currency equivalent of the amount or loss expressed in that other currency.
- (11) For the purposes of subsection (10) above the local currency equivalent of an amount is the equivalent—
- (a) expressed in the local currency of the trade for the last relevant accounting period, and
 - (b) calculated by reference to the London closing exchange rate for the day in which the termination time falls.
- (12) Subsection (13) below applies where the company has (apart from that subsection) a net contractual gain or loss of a trade and—
- (a) the trade concerned has ceased before the termination time, or
 - (b) the company carries on exempt activities immediately before the termination time.
- (13) In such a case the company shall be treated for the purposes of this section as if—
- (a) it did not have the net contractual gain or loss of the trade, and
 - (b) it had a net contractual non-trading gain or loss (as the case may be) equal to the amount which would have been the amount of the net contractual gain or loss of the trade apart from paragraph (a) above.
- (14) Where any amount found under subsection (13)(b) above would (apart from this subsection) be expressed in a currency other than sterling, it shall be treated for the purposes of this section as being the sterling equivalent of the amount expressed in that other currency; and any translation required by this subsection shall be made by reference to the London closing exchange rate for the currencies concerned for the day in which the termination time falls.
- (15) For the purposes of this section a company carries on exempt activities at a given time if—
- (a) the activities it then carries on are or include any of the activities mentioned in subsection (16) below,
 - (b) it is a housing association approved at that time for the purposes of section 488 of the Taxes Act 1988, or
 - (c) it is a self-build society approved at that time for the purposes of section 489 of that Act.
- (16) The activities referred to in subsection (15)(a) above are—
- (a) the activity of long term insurance business;

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

- (b) the activity of mutual insurance business;
 - (c) the activity of the occupation of commercial woodlands;
- and section 143(6) above applies for the purposes of this subsection.

147 Reciprocal currency contracts

- (1) This section applies where—
 - (a) a qualifying company enters into a currency contract (the first contract), and
 - (b) the company closes out that contract by entering into another currency contract (the second contract) with rights and duties which are reciprocal to those under the first contract.
- (2) For the purposes of this Chapter the company shall be treated as ceasing, at the time it enters into the second contract, to be entitled to rights and subject to duties under the first contract without having received or made payment of any currency in pursuance of the first contract.
- (3) For the purposes of this Chapter the second contract shall be ignored (except in applying the preceding provisions of this section).