



# Finance Act 1993

## 1993 CHAPTER 34

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER II

#### EXCHANGE GAINS AND LOSSES

##### *Excess gains or losses*

#### **148 Excess gains or losses**

- (1) Regulations may provide that where prescribed conditions are fulfilled as regards an asset or liability relief from tax shall be afforded in respect of it; and subsections (2) to (4) below shall apply for the purposes of the regulations.
- (2) The prescribed conditions must be or include ones that are met where it can reasonably be said that—
  - (a) a loss other than an exchange loss has accrued to a qualifying company as regards the asset or liability and no relief from tax is available under the Tax Acts in respect of the loss, and
  - (b) exchange gains have accrued to the company as regards the asset or liability without being matched (or fully matched) by exchange losses accruing to the company as regards the asset or liability.
- (3) The relief shall take such form as is prescribed and shall be such that the amount relieved does not exceed the amount of the unmatched gains.
- (4) The regulations may provide that if the loss mentioned in subsection (2)(a) above is made good to any extent the relief afforded by the regulations shall be cancelled (to the extent prescribed) by an assessment to tax.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Regulations may provide that where prescribed conditions are fulfilled as regards an asset or liability a charge to tax shall be imposed in respect of it; and subsections (6) and (7) below shall apply for the purposes of the regulations.
- (6) The prescribed conditions must be or include ones that are met where it can reasonably be said that—
  - (a) a gain other than an exchange gain has accrued to a qualifying company as regards the asset or liability and no charge to tax is imposed under the Tax Acts in respect of the gain, and
  - (b) exchange losses have accrued to the company as regards the asset or liability without being matched (or fully matched) by exchange gains accruing to the company as regards the asset or liability.
- (7) The charge shall take such form as is prescribed and shall be such that the amount charged does not exceed the amount of the unmatched losses.
- (8) Regulations under this section may include provision that the relief—
  - (a) is subject to a claim being made;
  - (b) is not available in prescribed circumstances.
- (9) Where (apart from this subsection) an exchange gain or loss would be expressed in a currency other than sterling, the amount of the gain or loss shall be treated for the purposes of this section as the sterling equivalent of its amount expressed in the other currency.
- (10) The translation required by subsection (9) above shall be made by reference to the London closing exchange rate for the two currencies concerned—
  - (a) for the last day of the accrual period for which the gain or loss accrues, or
  - (b) if that accrual period does not end with the end of a day, for the day on which that accrual period ends.
- (11) In this section—
  - (a) references to an exchange gain are to an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;
  - (b) references to an exchange loss are to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.