



# Finance Act 1993

## 1993 CHAPTER 34

### PART II

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

### CHAPTER II

#### EXCHANGE GAINS AND LOSSES

##### *Trading gains and losses*

#### **128 Trading gains and losses**

- (1) Subsections (2) to (4) below apply where—
  - (a) as regards an asset, liability or contract an initial exchange gain accrues to a qualifying company for an accrual period, and
  - (b) at any time in the period the asset or contract was held, or the liability was owed, by the company for the purposes of a trade or part of a trade carried on by it.
- (2) If throughout the accrual period the asset or contract was held, or the liability was owed, by the company solely for the purposes of the trade or part the whole of the gain is an exchange gain of the trade or part for the period.
- (3) In any other case the gain shall be apportioned on a just and reasonable basis and so much as is attributable to the trade or part is an exchange gain of the trade or part for the period.
- (4) The company shall be treated for the purposes of the Tax Acts as—
  - (a) receiving in respect of the trade or part an amount equal to the exchange gain of the trade or part for the accrual period, and
  - (b) receiving the amount in respect of the accounting period which constitutes the accrual period or in which the accrual period falls.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Subsections (6) to (8) below apply where—
- (a) as regards an asset, liability or contract an initial exchange loss accrues to a qualifying company for an accrual period, and
  - (b) at any time in the period the asset or contract was held, or the liability was owed, by the company for the purposes of a trade or part of a trade carried on by it.
- (6) If throughout the accrual period the asset or contract was held, or the liability was owed, by the company solely for the purposes of the trade or part the whole of the loss is an exchange loss of the trade or part for the period.
- (7) In any other case the loss shall be apportioned on a just and reasonable basis and so much as is attributable to the trade or part is an exchange loss of the trade or part for the period.
- (8) The company shall be treated for the purposes of the Tax Acts as—
- (a) incurring in the trade or part a loss of an amount equal to the exchange loss of the trade or part for the accrual period, and
  - (b) incurring the loss in respect of the accounting period which constitutes the accrual period or in which the accrual period falls.
- (9) For the purposes of this section a part of a trade is any part of a trade whose basic profits or losses for the relevant accounting period are by virtue of regulations under section 94 above to be computed and expressed in a particular currency for the purposes of corporation tax; and the relevant accounting period is the accounting period which constitutes the accrual period concerned or in which that accrual period falls.
- (10) The preceding provisions of this section apply—
- (a) whether the asset or contract is at any time held, or the liability is at any time owed, on revenue account or capital account, and
  - (b) notwithstanding anything in section 74 of the Taxes Act 1988 (general rules as to deductions not allowable).
- (11) In a case where—
- (a) an accounting period of a qualifying company begins on or after its commencement day, and
  - (b) but for this subsection, a gain or loss falling within subsection (12) below would be taken into account in calculating for the purposes of corporation tax the profits or losses for the period of a trade carried on by the company,
- the gain or loss shall be left out of account in calculating the profits or losses.
- (12) A gain or loss falls within this subsection if it—
- (a) accrues to the company, otherwise than by virtue of this Chapter, as regards a qualifying asset or liability or a currency contract, and
  - (b) is attributable to fluctuations in currency exchange rates;
- and it is immaterial whether the gain or loss is realised.