

Status: Point in time view as at 27/07/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, SCHEDULE 17. (See end of Document for details)

SCHEDULES

SCHEDULE 17

Section 169.

EXCHANGE GAINS AND LOSSES: CHARGEABLE GAINS

Introduction

- 1 In this Schedule “the 1992 Act” means the ^{M1}Taxation of Chargeable Gains Act 1992.

Marginal Citations

M1 1992 c. 12.

Currency

- 2 (1) In a case where—
- (a) there is for the purposes of the 1992 Act a disposal of currency other than sterling by a qualifying company, and
 - (b) immediately before the disposal the company did not hold the currency in exempt circumstances (within the meaning given by paragraph 3 below),
- for the purposes of that Act no chargeable gain or allowable loss shall accrue on the disposal.
- (2) This paragraph applies to disposals on or after the company’s commencement day.
- 3 (1) For the purposes of paragraph 2 above a company holds currency in exempt circumstances at a given time if—
- (a) the purposes for which it then holds the currency are or include any of the purposes mentioned in sub-paragraph (2) 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.
- (2) The purposes referred to in sub-paragraph (1)(a) above are—
- (a) the purposes of long term insurance business;
 - (b) the purposes of mutual insurance business;
 - (c) the purposes of the occupation of commercial woodlands.
- (3) In this paragraph—

Status: Point in time view as at 27/07/1993.

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“long term insurance business” means insurance business of any of the classes specified in Schedule 1 to the ^{M2}Insurance Companies Act 1982;

“commercial woodlands” means woodlands in the United Kingdom which are managed on a commercial basis and with a view to the realisation of profits.

Modifications etc. (not altering text)

C1 Sch. 17 para. 3 applied (with modifications) (29.4.1996) by 1992 c. 12, ss. 117A, 117B (as inserted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 62)

Marginal Citations

M2 1982 c. 50.

Debts other than securities

- 4 (1) In a case where—
- (a) there is for the purposes of the 1992 Act a disposal of a debt by a qualifying company,
 - (b) the right to settlement under the debt is a qualifying asset,
 - (c) the settlement currency of the debt is a currency other than sterling,
 - (d) immediately before the disposal the company did not hold the debt in exempt circumstances, and
 - (e) the debt is not a debt on a security,
- for the purposes of that Act no chargeable gain or allowable loss shall accrue on the disposal.
- (2) Paragraph 3 above applies for the purposes of this paragraph as if references to currency were references to a debt.
- [^{F1}(2A) In sub-paragraph (1)(e) above “security” includes a debenture that is deemed to be a security for the purposes of section 251 of the 1992 Act by virtue of subsection (6) of that section (debentures issued on reorganisation etc.)]
- (3) This paragraph applies to disposals on or after the company’s commencement day.

Textual Amendments

F1 Sch. 17 para. 4(2A) inserted (retrospective to 27.7.1993) by 1995 c. 4, s. 130, Sch. 24 paras. 1, 5

Debts on securities: disposals

- [^{F25} (1) This paragraph applies where—
- (a) a right to settlement under a debt on a security is a qualifying asset,
 - (b) there occurs in relation to the security an event which is a disposal of it for the purposes of the 1992 Act by a qualifying company or which would be such a disposal but for section 127 of that Act (reorganisations),

Status: Point in time view as at 27/07/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, SCHEDULE 17. (See end of Document for details)

- (c) the event occurs on or after the company's commencement day, and
 - (d) immediately before the occurrence of the event the company did not hold the right in exempt circumstances.
- (2) In applying section 117 of that Act (qualifying corporate bonds) in relation to the event mentioned in sub-paragraph (1) above or to a transaction (if any) falling within sub-paragraph (4) below, that section shall be construed as if subsection (1) (b) (corporate bond must be in sterling) were omitted.
- (3) Where the settlement currency of the debt is a currency other than sterling, then, in applying section 117 of the 1992 Act in relation to the event mentioned in sub-paragraph (1) above or to a transaction (if any) falling within sub-paragraph (4) below—
- (a) the definition of normal commercial loan for the purposes of section 117(1) (a) shall have effect, and be treated as always having had effect, as if paragraphs (b) and (c) of paragraph 1(5) of Schedule 18 to the Taxes Act 1988 had always been omitted;
 - (b) section 117 shall be construed as if subsection (10) (securities issued within group) were omitted.
- (4) A transaction falls within this sub-paragraph if—
- (a) it is a transaction in relation to which sections 127 to 130 of the 1992 Act apply by virtue of any provision of Chapter II of Part IV of that Act, or would apply apart from section 116 of that Act,
 - (b) it is a transaction under which the qualifying company becomes entitled to the right,
 - (c) it occurs on or after the company's commencement day but before the event mentioned in sub-paragraph (1) above, and
 - (d) the company holds the right at all times following the time when it becomes entitled to it and preceding the event mentioned in sub-paragraph (1) above.
- (5) Paragraph 3 above applies for the purposes of this paragraph as if references to currency were references to a right.]

Textual Amendments

F2 Sch. 17 para. 5 substituted (retrospective to 27.7.1993) by 1995 c. 4, s. 130, Sch. 24 paras. 1, 6

Debts on securities: relief

- 6 (1) This paragraph applies where—
- (a) a qualifying company has made a loan,
 - (b) the debt is a debt on a security, and
 - (c) the right to settlement under the debt is a qualifying asset.
- (2) In applying section 117 of the 1992 Act (qualifying corporate bonds) for the purposes of section 254 of that Act (relief for debts on qualifying corporate bonds) section 117(1)(b) (corporate bond must be in sterling) shall be ignored.
- (3) If the settlement currency of the debt is a currency other than sterling, in applying section 117 of that Act for the purposes of section 254 of that Act—

Status: Point in time view as at 27/07/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, SCHEDULE 17. (See end of Document for details)

- (a) the definition of normal commercial loan for the purposes of section 117(1) shall have effect as if paragraphs (b) and (c) of paragraph 1(5) of Schedule 18 to the Taxes Act 1988 were omitted;
 - (b) section 117(10) (securities issued within group) shall be ignored.
- (4) In applying section 254(6) of that Act in the case of a security which would not be a qualifying corporate bond apart from sub-paragraph (2) or (3) above, the allowable amount shall be found by taking what that amount would be apart from this sub-paragraph and deducting an amount equal to the amount of any exchange loss (or the aggregate amount of any exchange losses) accruing to the company as regards the asset for a period or periods ending on or before the relevant date.
- (5) For the purposes of sub-paragraph (4) above—
- (a) an exchange loss is an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss;
 - (b) the relevant date is the date when the security's value became negligible or the outstanding amount of the principal of the loan was irrecoverable or proved to be irrecoverable (as the case may be).
- (6) Where apart from this sub-paragraph the amount of an exchange loss would be an amount expressed in a currency other than the basic currency, it shall be treated for the purposes of this paragraph as the basic currency equivalent on the day the claim is made of the amount so expressed; and the basic currency is the currency in which the allowable amount is expressed.
- (7) For the purposes of sub-paragraph (6) above the basic currency equivalent of an amount on a particular day is the basic currency equivalent calculated by reference to the London closing exchange rate for that day.
- (8) This paragraph applies to claims made on or after the company's commencement day (whenever the loan was made).

Reconstructions, groups etc.

- 7 (1) This paragraph applies where there is for the purposes of the 1992 Act a disposal or acquisition of an asset which is—
- (a) currency,
 - (b) a debt which is not a debt on a security and the right to settlement under which is a qualifying asset,
 - (c) a security (as defined in section 132 of the 1992 Act) where the right to settlement under the debt on the security is a qualifying asset, or
 - (d) an obligation which by virtue of section 143 of the 1992 Act (futures and options) is regarded as an asset to the disposal of which that Act applies and which is a duty under a currency contract.
- (2) In a case where—
- (a) the condition mentioned in sub-paragraph (3) below is fulfilled, and
 - (b) section 139, 171 or 172 of the 1992 Act (reconstructions, groups etc.) would, apart from this paragraph, apply as regards the disposal or acquisition,

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, SCHEDULE 17. (See end of Document for details)

the section concerned shall not apply as regards the disposal and the corresponding acquisition or (as the case may be) shall not apply as regards the acquisition and the corresponding disposal.

- (3) The condition is that stated in paragraph (a) or (b) below (as the case may be)—
- (a) the disposal is by a qualifying company and immediately before the disposal the asset is held wholly for qualifying purposes;
 - (b) the acquisition is by a qualifying company and immediately after the acquisition the asset is held wholly for qualifying purposes.
- (4) For the purposes of this paragraph qualifying purposes are purposes which constitute one or both of the following—
- (a) purposes of long term insurance business;
 - (b) purposes of mutual insurance business;
- and “long term insurance business” means insurance business of any of the classes specified in Schedule 1 to the ^{M3}Insurance Companies Act 1982.
- (5) This paragraph applies where the disposal or acquisition (as the case may be) is made on or after the commencement day of the company mentioned in sub-paragraph (3) (a) or (b) above (as the case may be).

Marginal Citations

M3 1982 c. 50.

Indexation allowance

- 8 In construing section 103(7) of the 1992 Act (restriction on availability of indexation allowance: non-chargeable assets) the effect of paragraphs 2 and 4 above shall be ignored.

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