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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1997, Paragraph 3. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 17

#### CHARGEABLE GAINS: RE-INVESTMENT RELIEF

##### *Loss of relief*

3 (1) In subsection (1) of section 164F (failure of conditions of relief), after “or this section” there shall be inserted “ or section 164FA ”.

(2) After that section there shall be inserted the following section—

**“164FA Loss of relief in cases where shares acquired on being issued.**

(1) Subsection (5) below applies in any case falling within any of subsections (2) to (4) below which is a case where—

- (a) a person has acquired any eligible shares in a qualifying company (“the acquired holding”) for a consideration which is treated as reduced, under section 164A or 164F or this section, by any amount (“the held-over gain”); and
- (b) that person acquired those shares by their being issued to him.

(2) A case falls within this subsection if—

- (a) the money raised by the issue of the shares comprised in the acquired holding was, at the time when those shares were acquired, intended to be employed for the purposes of a qualifying trade then being carried on; and
- (b) that money has not been wholly employed for permissible purposes by the end of the initial utilisation period.

(3) A case falls within this subsection if—

- (a) the money raised by the issue of the shares comprised in the acquired holding was, at the time when those shares were acquired, intended to be employed for the purposes of a qualifying trade not then being carried on;
- (b) that trade begins to be carried on before the end of the period of 2 years from that time; and
- (c) that money (apart from any part of it wholly employed for permissible purposes within the initial utilisation period) has not been wholly employed for the purposes of that trade by the end of the period of 1 year from the time when that trade begins to be carried on (“the first trading year”).

(4) A case falls within this subsection if—

- (a) the money raised by the issue of the shares comprised in the acquired holding was, at the time when those shares were acquired, intended

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- to be employed for the purposes of a qualifying trade not then being carried on;
- (b) that trade does not begin to be carried on before the end of the period of 2 years from that time; and
  - (c) that money has not been wholly employed for permissible purposes by the end of the initial utilisation period.
- (5) In a case in which this subsection applies, but subject to the following provisions of this section, a chargeable gain equal to the appropriate portion of the held-over gain shall be treated as accruing to the person mentioned in subsection (1) above immediately before the utilisation time; and in this subsection “the utilisation time” means—
- (a) in relation to a case falling within subsection (2) above, the end of the initial utilisation period;
  - (b) in relation to a case falling within subsection (3) above, the end of the first trading year; and
  - (c) in relation to a case falling within subsection (4) above, the end of the period of 2 years mentioned in that subsection.
- (6) If, in a case in which subsection (5) above applies, part (but only part) of the money raised by the issue of the shares comprised in the acquired holding has been permissibly employed, this Chapter shall have effect in relation to that holding—
- (a) as if it were two separate holdings consisting of—
    - (i) a holding from which that part of the money was raised; and
    - (ii) a holding from which the remainder was raised;

and
  - (b) as if its value were to be apportioned accordingly between those two holdings;
- but nothing in this subsection shall require any money whose use is disregarded by virtue of subsection (8)(e) below to be treated as raised by a different holding.
- (7) For the purposes of subsection (6) above a part of the money raised by the issue of the shares comprised in the acquired holding shall be taken to have been permissibly employed if—
- (a) in a case falling within subsection (2) or (4) above, that part has been wholly employed for permissible purposes within the initial utilisation period; or
  - (b) in a case falling within subsection (3) above that part has been wholly employed—
    - (i) for permissible purposes within the initial utilisation period, or
    - (ii) for the purposes of the trade mentioned in that subsection before the end of the first trading year.
- (8) For the purposes of this section—
- (a) the appropriate portion of the held-over gain is so much, if any, of that gain as has not already been charged on any disposal or under section 164F or this section;

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- (b) “the initial utilisation period” means the period of 1 year from the time when the acquired holding was acquired;
  - (c) “permissible purposes”, in relation to a company, means the purposes of any qualifying trade carried on by it or by any of its qualifying subsidiaries;
  - (d) “qualifying subsidiary” has the same meaning as in section 164G;
  - (e) money shall not be treated as employed otherwise than wholly for particular purposes if the only amount employed for other purposes is an amount which is not a significant amount; and
  - (f) the purposes of a qualifying trade shall be taken to include the purpose of preparing for the carrying on of the trade.
- (9) Subsections (4) to (5) and (10A) to (11) of section 164F shall apply for the purposes of this section as they apply for the purposes of that section, but—
- (a) subsection (5) of that section shall so apply—
    - (i) with the omission of paragraphs (e) to (g), and
    - (ii) as if the reference in paragraph (d) to any charge under subsection (2) of that section were a reference to any charge under subsection (5) of this section;
  - and
  - (b) subsection (10A) of that section shall so apply as if the reference to subsection (2) of that section were a reference to subsection (5) of this section.”

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