



# Finance Act 2001

## 2001 CHAPTER 9

### PART 3

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

### CHAPTER 2

#### OTHER PROVISIONS

#### *Chargeable gains*

#### **F177** Notional transfers within a group

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##### **Textual Amendments**

- F1** S. 77 omitted (with effect in accordance with Sch. 12 para. 5 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 12 para. 4(b)**

#### **F278** Taper relief: assets qualifying as business assets

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##### **Textual Amendments**

- F2** S. 78 omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 55(d)(i)**

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Cross Heading: Chargeable gains. (See end of Document for details)*

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## 79 **De-grouping charge: transitional relief**

Schedule 29 to the Finance Act 2000 (chargeable gains: non-resident companies and groups etc) shall be deemed to have been enacted with the following paragraph added at the end of Part 3 (transitional provisions) after paragraph 46—

### 47 **“De-grouping charge: deferral until company leaves new group**

(1) This paragraph has effect for the purposes of section 179 of the Taxation of Chargeable Gains Act 1992 as that section has effect in relation to assets acquired before 1st April 2000 (“old section 179”).

(2) Where—

- (a) a company would (apart from this paragraph) fall to be regarded for the purposes of old section 179 as ceasing to be a member of an old group at any time, but
- (b) immediately before that time, it is also a member of a new group for the purposes of new section 179,

the company shall not be regarded for the purposes of old section 179 as ceasing to be a member of the old group unless or until it also ceases to be a member of the new group for the purposes of new section 179.

(3) Sub-paragraph (2) above does not prevent the company from being or becoming a member of another old group at any time.

(4) Where a company ceases to be a member of a new group on any occasion, it shall not by virtue of sub-paragraph (2) above be treated for the purposes of old section 179 as if it had on that occasion ceased to be a member of the same old group more than once.

(5) For the purposes of this paragraph—

- (a) references to a company being a member of an old group are references to its being, for the purposes of old section 179, a member of a group of companies within the meaning given by old section 170;
- (b) references to a company being a member of a new group are references to its being, for the purposes of new section 179, a member of a group of companies within the meaning given by new section 170; and
- (c) references to a company ceasing to be a member of an old group or a new group shall be construed in accordance with paragraph (a) or (b) above, as the case may be.

(6) Where, for the purposes of sub-paragraph (2)(b) above, a company is not a member of a new group by reason only that—

- (a) the principal company of the old group is not the principal company of the new group, and
- (b) the company in question is not an effective 51 per cent subsidiary of the principal company of the new group,

subsection (3)(b) of new section 170 shall not apply in relation to the company for the purposes of this paragraph for so long as it remains an effective 51 per cent subsidiary of the company which was the principal company of the old group.

(7) In this paragraph—

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- (a) “new section 179” means section 179 of the Taxation of Chargeable Gains Act 1992 (c. 12) as it has effect in relation to assets acquired on or after 1st April 2000;
- (b) “new section 170” means section 170 of that Act, as amended by the main amendments;
- (c) “old section 170” means section 170 of the Taxation of Chargeable Gains Act 1992, as it stands before the main amendments.

(8) Expressions used in this paragraph and in section 170 of the Taxation of Chargeable Gains Act 1992 shall be construed in accordance with that section.”.

## **80 Attribution of gains of non-resident companies**

(1) Section 13 of the Taxation of Chargeable Gains Act 1992 (attribution of gains to members of non-resident companies) is amended as follows.

(2) In subsection (4) (no attribution if amount does not exceed one twentieth of gain) for “one twentieth” substitute “one tenth”.

(3) In subsection (5) (gains to which the section does not apply) for paragraph (b) substitute—

“(b) a chargeable gain accruing on the disposal of an asset used, and used only—

(i) for the purposes of a trade carried on by the company wholly outside the United Kingdom, or

(ii) for the purposes of the part carried on outside the United Kingdom of a trade carried on by the company partly within and partly outside the United Kingdom,”.

(4) For subsection (5A) (credit for tax on attributed gain in relation to later distribution) substitute—

“(5A) Where—

(a) an amount of tax is paid by a person in pursuance of subsection (2) above, and

(b) an amount in respect of the chargeable gain is distributed (either by way of dividend or distribution of capital or on the dissolution of the company) before the end of the period specified in subsection (5B) below,

the amount of tax (so far as neither reimbursed by the company nor applied as a deduction under subsection (7) below) shall be applied for reducing or extinguishing any liability of that person to income tax, capital gains tax or corporation tax in respect of the distribution.

(5B) The period referred to in subsection (5A)(b) above is the period of three years from—

(a) the end of the period of account of the company in which the chargeable gain accrued, or

(b) the end of the period of twelve months beginning with the date on which the chargeable gain accrued,

whichever is earlier.

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In paragraph (a) above a “period of account” means a period for which the company makes up its accounts.”

(5) After subsection (10A) insert—

“(10B) A chargeable gain that would be treated as accruing to a person under subsection (2) above shall not be so treated if—

- (a) it would be so treated only if assets that are assets of a pension scheme were taken into account in ascertaining that person’s interest as a participator in the company, and
- (b) at the time the gain accrues a gain arising on a disposal of those assets would be exempt from tax by virtue of section 271(1)(b), (c), (d), (g) or (h) or (2).

In paragraph (a) above “assets of a pension scheme” means assets held for the purposes of a fund or scheme to which any of the provisions mentioned in paragraph (b) above applies.”.

(6) This section applies to chargeable gains accruing as mentioned in section 13(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) on or after 7th March 2001.

**Changes to legislation:**

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Chargeable gains.