

SCHEDULES

SCHEDULE 29

GAINS AND LOSSES OF A COMPANY FROM INTANGIBLE FIXED ASSETS

PART 15

INTERPRETATION

References to expenditure on an asset

- 133 (1) References in this Schedule to expenditure on an asset are to any expenditure (including abortive expenditure)—
- (a) for the purpose of acquiring or creating, or establishing title to, the asset, or
 - (b) by way of royalty in respect of the use of the asset, or
 - (c) for the purpose of maintaining, preserving or enhancing, or defending title to, the asset.
- (2) No account shall be taken of capital expenditure on tangible assets in determining for the purposes of this Schedule the amount of expenditure on an intangible asset.
“Capital expenditure” here has the same meaning as in the Capital Allowances Act 2001 (c. 2).
- (3) Any necessary apportionment shall be made on a just and reasonable basis in a case where expenditure is incurred partly as mentioned in sub-paragraph (1) or (2) and partly otherwise.

References to amounts recognised in profit and loss account

- 134 References in this Schedule to an amount recognised in a company’s profit and loss account for a period include—
- (a) an amount recognised in a statement of total recognised gains and losses or other statement of items brought into account in computing the company’s profits and losses for that period; and
 - (b) an amount that would have been so recognised if a profit and loss account or other such statement as is mentioned in paragraph (a) had been drawn up for that period in accordance with generally accepted accounting practice.

Meaning of “accounting value”

- 135 References in this Schedule to the “accounting value” of an asset are to the net book value (or carrying amount) of the asset recognised for accounting purposes.

Status: This is the original version (as it was originally enacted).

Meaning of “adjustments required for tax purposes”

- 136 References in this Schedule to “adjustments required for tax purposes” are to any adjustment required—
- (a) by Schedule 28AA to the Taxes Act 1988 (provision not at arm’s length), or
 - (b) by any provision of this Schedule.

Meaning of “chargeable intangible asset” and “chargeable realisation gain”

- 137 (1) For the purposes of this Schedule—
- (a) an asset is a “chargeable intangible asset” in relation to a company at any time if, were it to be realised by the company at that time, any gain on its realisation would be a chargeable realisation gain;
 - (b) there is a “chargeable realisation gain” if a gain on the realisation of an asset gives rise to a credit required to be brought into account for tax purposes under Part 4 (realisation of intangible fixed asset).
- (2) For the purposes of sub-paragraph (1)—
- (a) there is a gain on the realisation of an asset in any case if the circumstances are such that paragraph 20(2)(a), 21(2)(a) or 23(2) applies, and
 - (b) there shall be disregarded in determining whether there is such a gain—
 - (i) the availability of relief under Part 7 (roll-over relief on realisation and reinvestment), and
 - (ii) any provision of this Schedule under which a transfer of an asset is to be treated as tax-neutral.

Interpretation provisions relating to insurance companies

- 138 (1) In this Schedule “insurance company”, “life assurance business”, “long-term business”, “long-term insurance fund” and “basic life assurance and general annuity business” have the same meaning as in Chapter 1 of Part 12 to the Taxes Act 1988 (see section 431(2) of that Act).
- (2) Any question arising in the case of an intangible fixed asset held by an insurance company as to the extent to which—
- (a) the asset is to be treated for the purposes of this Schedule as held for the purposes of any category of business carried on by the company, or
 - (b) credits or debits under this Schedule in respect of the asset are to be treated as referable to any such category of business,
- shall be determined in accordance with section 432A of the Taxes Act 1988 as that section would apply (apart from this Schedule) in relation to income or gains from the asset.
- (3) Any question arising as to the extent to which royalties payable by an insurance company are referable to any class of business carried on by the company shall be determined in accordance with section 432A of the Taxes Act 1988 as that section would apply if—
- (a) the right in respect of the enjoyment or exercise of which the royalties are payable was an asset held by the company, and
 - (b) the royalties payable were income from that asset.

Meaning of “royalty”

- 139 In this Schedule “royalty” means a royalty in respect of the enjoyment or exercise of rights that constitute an intangible fixed asset.

Meaning of “tax-neutral transfer”

- 140 (1) This paragraph applies to a transfer of an asset that is, by virtue of any provision of this Schedule, to be treated as a “tax-neutral” transfer.
- (2) Where this paragraph applies—
- (a) the transfer is regarded for the purposes of this Schedule as not involving any realisation of the asset by the transferor or any acquisition of that asset by the transferee, and
 - (b) the transferee is treated for the purposes of this Schedule as having held the asset at all times when it was held by the transferor and as having done all such things in relation to the asset as were done by the transferor.
- (3) This means, in particular—
- (a) that the original cost of the asset in the hands of the transferor is treated as the original cost in the hands of the transferee, and
 - (b) that all such debits and credits in relation to the asset as have been brought into account for tax purposes by the transferor under this Schedule are treated as if they had been so brought into account by the transferee.

The reference in paragraph (a) to the cost of the asset is to the cost recognised for tax purposes.

Meaning of “the Inland Revenue”

- 141 (1) Functions under these provisions are functions of the Board—
- paragraph 35(2) (relief against total profits: power to allow longer period for claim),
 - paragraph 39(1)(a) (roll-over relief: power to allow longer reinvestment period),
 - paragraphs 84(6), 85(5), 86(9), 87(8) and 88 (transfers treated as tax-neutral, etc: clearance procedure).

These functions are within section 4A of the Inland Revenue Regulation Act 1890 (c. 21) (functions of Board exercisable by officer acting with their authority).

- (2) Subject to sub-paragraph (1), references in this Schedule to “the Inland Revenue” are to any officer of the Board.
- (3) In this paragraph “the Board” means the Commissioners of Inland Revenue.

Meaning of “the Taxes Acts”

- 142 In this Schedule “the Taxes Acts” means the enactments relating to income tax, corporation tax or chargeable gains.

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

Index of defined expressions

143 The expressions listed below are defined or otherwise explained by the provisions indicated:

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basic life assurance and general annuity business	paragraph 138(1)
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chargeable realisation gain	paragraph 137(1)(b)
company (in Part 8)	paragraph 46(2)
effective 51% subsidiary	paragraph 52
existing asset	paragraph 118(3) (and see paragraph 127)
expenditure on an asset	paragraph 133
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group (of companies)	paragraph 47 and Part 8 generally
Inland Revenue	paragraph 141
insurance company	paragraph 138(1)
intangible asset	paragraph 2
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life assurance business	paragraph 138(1)
long-term business and long-term insurance fund	paragraph 138(1)
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old asset (in Part 7)	paragraph 37(1)
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part realisation (of asset)	paragraph 19(3)
principal company (of group)	paragraph 47(1) and Part 8 generally
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