



Finance Act 2004

2004 CHAPTER 12

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 9

AVOIDANCE INVOLVING LOSS RELIEF OR PARTNERSHIP

Companies in partnership

133 Relationship with chargeable gains

- (1) Subsection (3) below applies if—
 - (a) section 131 applies as a result of a receipt on or after 17 March 2004, by a company that is or has been a member of a partnership, of any consideration for a disposal on or after that date of all or any of its interest in the partnership (“the section 131 disposal”);
 - (b) a chargeable gain accrues to the company on a relevant disposal; and
 - (c) the total amount of chargeable gains accruing to the company on relevant disposals exceeds the total amount of any allowable losses accruing to it on such disposals.
- (2) References in this section to a “relevant disposal” are to any disposal of an asset that, alone or together with other disposals of assets, constitutes the section 131 disposal; and references in this subsection to a disposal of an asset are to be construed in accordance with the 1992 Act.
- (3) Where this subsection applies—
 - (a) any chargeable gain accruing to the company on a relevant disposal must be excluded in computing, for the purposes of section 8(1) of the 1992 Act, the total amount of chargeable gains accruing to the company in the accounting period in which that gain accrued;

Status: This is the original version (as it was originally enacted).

- (b) the relevant net gain (defined by subsection (4) below) must be included in computing for those purposes the total amount of chargeable gains accruing to the company in the accounting period in which the receipt mentioned in subsection (1) above occurred; and
 - (c) any allowable loss accruing to the company on a relevant disposal must be excluded in computing for the purposes of section 8(1) of the 1992 Act the amount of any allowable losses.
- (4) To find “the relevant net gain” for the purposes of this section—
 - (a) take the amount by which the total amount of chargeable gains accruing to the company on relevant disposals exceeds the total amount of allowable losses accruing to it on such disposals; and
 - (b) reduce it (but not below nil) by an amount equal to the chargeable amount.
- (5) Where section 131 applies as mentioned in subsection (1)(a) above, in computing any chargeable gain or allowable loss accruing to the company on a relevant disposal—
 - (a) neither the chargeable amount, nor any amount taken into account in computing it, shall be excluded by section 37(1) of the 1992 Act (exclusions from consideration); and
 - (b) an amount that has been taken into account in computing the chargeable amount shall not by reason of that fact be excluded by section 39(1) of that Act (exclusions from allowable deductions).
- (6) If section 131 and this section apply more than once as a result of two or more receipts by a company of consideration relating to the same section 131 disposal—
 - (a) subsection (3)(b) above does not apply in relation to any of the receipts after the first; and
 - (b) in relation to the first receipt, the amount to be deducted under subsection (4) (b) above is an amount equal to the total of the chargeable amounts found in relation to the receipts.
- (7) Subsection (8) below applies if subsection (3) above prevents an allowable loss that accrued to a company otherwise than on a relevant disposal from being deductible from a chargeable gain accruing to the company on a relevant disposal.
- (8) That loss (to the extent that it has not been deducted from any other chargeable gain) shall instead be deductible from the total amount of chargeable gains accruing to the company in the accounting period in which the receipt mentioned in subsection (1) above occurred.
- (9) But if, in any case where subsection (3) above applies, there are one or more allowable losses—
 - (a) that are losses to which section 18(3) of the 1992 Act applies, and
 - (b) that accrued to the company otherwise than on a relevant disposal and are prevented by subsection (3) above from being deductible from a chargeable gain accruing to the company on a relevant disposal,the total amount deducted under subsection (8) above in respect of those losses must not exceed the relevant net gain.
- (10) In this section—
 - “the 1992 Act” means the Taxation of Chargeable Gains Act 1992 (c. 12);
 - “the chargeable amount” means the amount found under section 131 in relation to the receipt mentioned in subsection (1) above; and

references to chargeable gains, or allowable losses, accruing on disposals are to be construed in accordance with the 1992 Act.