



Income Tax Act 2007

2007 CHAPTER 3

PART 8

OTHER RELIEFS

CHAPTER 3

GIFTS OF SHARES, SECURITIES AND REAL PROPERTY TO CHARITIES ETC

Value of net benefit to charity

437 Value of net benefit to charity

- (1) For the purposes of this Chapter the value of the net benefit to a charity is—
- (a) the [^{F1}relevant] value of the qualifying investment, or
 - (b) if the charity is, or becomes, subject to a disposal-related obligation, the [^{F1}relevant] value of the qualifying investment reduced by the total amount of the disposal-related liabilities of the charity.

[^{F2}(1A) In subsection (1) “relevant value” means—

- (a) where subsection (1B) applies, the lower of the market value and the acquisition value, and
- (b) otherwise, the market value.

(1B) This subsection applies where—

- (a) the qualifying investment, or anything from which it derives or which it represents (whether in whole or in part and whether directly or indirectly), was acquired by the individual making the disposal within the period of 4 years ending with the day on which the disposal is made,
- (b) the acquisition was made as part of a scheme, and

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- (c) the main purpose, or one of the main purposes, of the individual in entering into the scheme was to obtain relief, or an increased amount of relief, under this Chapter.
- (1C) In subsection (1B) “scheme” includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.]
- (2) This section is supplemented by—
 section 438 (market value of qualifying investments),
 [F³section 438A (acquisition value of qualifying investments),]
 section 439 (meaning of “disposal-related obligation”), and
 section 440 (meaning and amount of “disposal-related liability”).

Textual Amendments

- F1** Word in s. 437(1) substituted (8.4.2010 with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 7 para. 2\(2\)](#)
- F2** S. 437(1A)-(1C) inserted (8.4.2010 with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 7 para. 2\(3\)](#)
- F3** Words in s. 437(2) inserted (8.4.2010 with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 7 para. 2\(4\)](#)

438 Market value of qualifying investments

- (1) The market value of a qualifying investment for the purposes of this Chapter is determined in accordance with sections 272 to 274 of TCGA 1992 (subject to Part 1 of Schedule 11 to that Act).
- (2) But, in the case of an interest in an offshore fund for which separate buying and selling prices are published regularly by the managers of the fund, the market value for the purposes of this Chapter is equal to the buying price (that is the lower price) published on—
- (a) the day of the disposal, or
 - (b) if none were published on that day, on the latest day on which the prices were published before that day.

[F⁴438A Acquisition value of qualifying investments

- (1) For the purposes of this Chapter the acquisition value of a qualifying investment disposed of by an individual is—
- (a) where the qualifying investment was acquired by the individual within the period of 4 years ending with the day on which the disposal is made, the cost to the individual of acquiring it, or
 - (b) where something from which the qualifying investment derives or which it represents was so acquired, such proportion of the cost to the individual of acquiring that thing as is just and reasonable to attribute to the qualifying investment.
- (2) A reference in subsection (1) to the cost to the individual of an acquisition is to—
- (a) the consideration given by the individual for the acquisition, less

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- (b) any amount that is received in connection with the acquisition, by the individual or a person connected with the individual, as part of the scheme in question.]

Textual Amendments

- F4** S. 438A inserted (8.4.2010 with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 7 para. 3](#)

439 Meaning of “disposal-related obligation”

- (1) In this Chapter an obligation is a “disposal-related obligation”, in relation to a qualifying investment, if condition A or condition B is met in relation to it.
- (2) The obligation may be to any person (whether or not the individual making the disposal or a person connected with the individual).
- (3) Condition A is that it is reasonable to suppose that the disposal of the qualifying investment to the charity would not have been made in the absence of the obligation.
- (4) Condition B is that the obligation (whether in whole or in part) relates to, is framed by reference to, or is conditional on the charity receiving, the qualifying investment or a disposal-related investment.
- (5) In applying condition A, all the circumstances must be taken into account (including, in particular, the difference in the value of the net benefit to the charity calculated under section 437(1)(a) and that value calculated under section 437(1)(b)).
- (6) In subsection (4) “disposal-related investment” means any of the following—
 - (a) an asset of the same class or description as the qualifying investment (irrespective of size, quantity or amount),
 - (b) an asset derived from, or representing, the qualifying investment, whether in whole or in part and whether directly or indirectly, and
 - (c) an asset from which the qualifying investment is derived, or which the qualifying investment represents, whether in whole or in part and whether directly or indirectly.
- (7) In this Chapter “obligation” includes a reference to each of the following—
 - (a) a scheme, arrangement or understanding of any kind, whether or not legally enforceable, and
 - (b) a series of obligations (whether or not between the same parties).

440 Meaning and amount of “disposal-related liability”

- (1) In this Chapter a liability is a “disposal-related liability” in the case of a qualifying investment if it is a liability of the charity under a disposal-related obligation in relation to the qualifying investment.
- (2) If the disposal-related obligation is contingent, the amount to be brought into account for the purposes of section 437 at any time in respect of the disposal-related liability, so far as contingent, is—
 - (a) if the contingency occurs, the amount or value of the liability actually incurred in consequence of the occurrence of the contingency, or

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- (b) if the contingency does not occur, nil.

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