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**Changes to legislation:** Finance Act 2009, SCHEDULE 12 is up to date with all changes known to be in force on or before 19 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### SCHEDULE 12

Section 31

#### REALLOCATION OF CHARGEABLE GAIN OR LOSS WITHIN A GROUP

##### *Main provisions*

1 In TCGA 1992, for section 171A substitute—

##### **“171A Election to reallocate gain or loss to another member of the group**

- (1) This section applies where—
  - (a) a chargeable gain or an allowable loss accrues to a company (“company A”) in respect of an asset (or would so accrue but for an election under this section),
  - (b) at the time of accrual, company A and another company (“company B”) are members of the same group, and
  - (c) had company A disposed of the asset to company B immediately before the time of accrual, section 171(1) would have applied.
- (2) In determining for the purposes of subsection (1)(c) whether subsection (1) of section 171 would have applied, it is to be assumed that subsection (1A)(b) of that section read—
  - “(b) that, at the time of the disposal, company B is resident in the United Kingdom, or carrying on a trade in the United Kingdom through a permanent establishment there.”
- (3) In this section “the time of accrual” means the time the chargeable gain or allowable loss accrues to company A (or would so accrue but for an election under this section).
- (4) Companies A and B may make a joint election to transfer the chargeable gain or allowable loss, or such part of it as is specified in the election, from company A to company B.
- (5) An election under this section must be made—
  - (a) by notice to an officer of Revenue and Customs, and
  - (b) no later than two years after the end of the accounting period of company A in which the time of accrual falls.
- (6) An election, or two or more elections made simultaneously, is or are of no effect if, taken together with each earlier election (if any) made in respect of the same gain or loss, it or they would (apart from this subsection) have effect in relation to an amount exceeding the gain or loss.
- (7) This section does not apply in relation to a chargeable gain or allowable loss that accrues by virtue of section 179.

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For provision as to the reallocation within a group of gains and losses arising on such a disposal, see section 179A.

(8) For the effect of an election under this section, see section 171B.

### **171B Election under section 171A: effect**

- (1) This section applies where an election is made under section 171A.
- (2) The effect of the election is that the chargeable gain or allowable loss, or such amount of it as is specified in the election, is treated as accruing not to company A but to company B.
- (3) The gain or loss treated as accruing to company B is to be taken to accrue at the time that, had the election not been made, it would have accrued to company A.
- (4) Where company B is not resident in the United Kingdom, the gain or loss treated as accruing to it is to be taken to accrue in respect of a chargeable asset held by it.
- (5) For this purpose an asset is a “chargeable asset” in relation to a company at any time if any gain accruing to the company on a disposal of the asset by the company at that time would be a chargeable gain and would by virtue of section 10B form part of its chargeable profits for corporation tax purposes.
- (6) Any payment made by company A to company B or by company B to company A, in pursuance of an agreement between them in connection with the election—
  - (a) is not to be taken into account in computing profits or losses of either company for corporation tax purposes, and
  - (b) is not for any purposes of the Corporation Tax Acts to be regarded as a distribution,
 provided it does not exceed the amount of the chargeable gain or allowable loss that is treated, as a result of the election, as accruing to company B.

### **171C Elections under section 171A: insurance companies**

- (1) This section applies where —
  - (a) an election is made under section 171A in relation to a gain or loss, and
  - (b) company B is an insurance company.
- (2) For the purposes of section 171A(1)(c), section 440(3) of the Taxes Act (disposals of certain assets by and to insurance companies to fall outside the rule in section 171) is to be disregarded.
- (3) Subsection (2) does not apply if—
  - (a) company A is an insurance company, and
  - (b) the gain or loss arose in respect of the disposal of an asset that, immediately before the disposal, was part of that company's long-term insurance fund.

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- (4) The chargeable gain or allowable loss treated as accruing to company B as a result of the election is to be treated as arising in respect of an asset that is not part of company B's long-term insurance fund.
- (5) In this section “insurance company” and “long-term insurance fund” have the same meaning as in Chapter 1 of Part 12 of the Taxes Act (see section 431(2) of that Act).”

### *Consequential amendments*

F12 .....

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**Textual Amendments**

**F1** Sch. 12 para. 2 repealed (with effect in accordance with Sch. 10 para. 9 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 10 para. 8\(d\)](#)

F23 .....

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**Textual Amendments**

**F2** Sch. 12 para. 3 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with Sch. 2)

- 4 In consequence of the amendment made by paragraph 1, omit—
- (a) in FA 2000, section 101,
  - (b) in FA 2001, section 77,
  - (c) in FA 2003, in Schedule 33, paragraph 17, and
  - (d) in F(No.2)A 2005, section 36.

### *Commencement*

- 5 The amendments made by this Schedule have effect in relation to chargeable gains and allowable losses accruing on or after the day on which this Act is passed.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(4)(za) inserted by [2010 c. 33 Sch. 9 para. 3\(3\)](#)
- Sch. 53 para. 2A-2D and cross-heading inserted by [2010 c. 33 Sch. 9 para. 7](#)
- Sch. 53 para. 6A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 8](#)
- Sch. 53 para. 11A11B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 17](#)
- Sch. 53 para. 14A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 18](#)
- Sch. 54 para. 9B9C and cross-heading inserted by [2010 c. 33 Sch. 9 para. 11](#) (Sch. 54 para. 9B is amended before it comes into force by [2016 c. 24, Sch. 1 para. 66\(5\)](#))
- Sch. 54 para. 12A12B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 19](#)
- Sch. 54 Pt. A1 inserted by [2010 c. 33 Sch. 9 para. 10](#) (Sch. 9 para. 10 is amended before it comes into force by [2017 c. 32, Sch. 4 para. 182](#))
- Sch. 54A para. 2(e)-(g) omitted by [2024 c. 3 Sch. 2 para. 13](#)
- Sch. 55 para. 6(3A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(2\)\(a\)](#)
- Sch. 55 para. 6(4A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(3\)\(a\)](#)
- Sch. 55 para. 17(4)(ba) inserted by [2015 c. 11 Sch. 20 para. 19](#)