
Changes to legislation: There are currently no known outstanding effects for the Coal Industry Act 1994, Cross Heading: Chargeable gains: roll-over relief. (See end of Document for details)

SCHEDULES

SCHEDULE 4

TAXATION PROVISIONS

PART I

CORPORATION TAX

Chargeable gains: roll-over relief

- 7 (1) Where, apart from this sub-paragraph—
- (a) the predecessor would be treated for the purposes of section 152 of the 1992 Act as having ceased, by virtue of the coming into force of any relevant transfer, to carry on any trade, and
 - (b) the transferee would be treated as having begun, on the coming into force of that transfer, to carry it on,
- that section shall have effect as if any assets to which the transfer relates which, for the purposes of that section and in accordance with sub-paragraph (8) below, would fall immediately before the transfer comes into force to be treated in relation to the period of ownership as assets that have been used to any extent by the predecessor for the purposes of the trade were, as at the time immediately after the coming into force of the transfer, to be treated in relation to the period of ownership as assets that the transferee has used to the same extent for the purposes of that trade.
- (2) Where any assets vest by virtue of a relevant transfer in the transferee—
- (a) the predecessor shall not be entitled, at any time after the coming into force of the transfer, to make any claim under section 152 or 153 of the 1992 Act in respect of the acquisition by the predecessor of those assets; and
 - (b) subject to sub-paragraph (3) below, the transferee shall not be treated for the purposes of either of those sections or section 154 of that Act as having applied the whole or any part of the consideration for any disposal in acquiring those assets by means of that transfer.
- (3) Where, in the case of any relevant transfer—
- (a) the predecessor acquired any assets or any interest in any assets before the coming into force of the transfer,
 - (b) the assets or interest vest or vests in the transferee by virtue of the transfer,
 - (c) the acquisition is not one in respect of which the predecessor has made a claim under section 152 or 153 of the 1992 Act before the coming into force of the transfer,
 - (d) after the coming into force of the transfer the transferee disposes of, or of an interest in, any other assets, and
 - (e) the acquisition was such that, if the predecessor had been able to make and had made the disposal and obtained the consideration for it, the predecessor

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would have been regarded for the purposes of section 152 or 153 of that Act as having applied the consideration, or any part of it, in making the acquisition,

then, on a claim by the transferee, section 152 and, so far as necessary, section 153 of that Act shall have effect for the purposes of paragraph 2 above in relation to the acquisition as they would have effect if the acquisition had been made by the transferee and the assumptions specified in sub-paragraph (4) below applied.

- (4) Those assumptions are—
- (a) that the acquisition was made by the application by the transferee of the consideration or, as the case may be, the part of it mentioned in sub-paragraph (3)(e) above;
 - (b) that any period of ownership by the predecessor of any assets was a period of ownership of those assets by the transferee;
 - (c) that any use by the predecessor of any assets for the purposes of any trade which was, at the time, being carried on by the predecessor had been use by the transferee for the purposes of that trade; and
 - (d) that any trade for the purposes of which the transferee is assumed by virtue of paragraph (c) above to have used any asset was a trade which was being carried on by the transferee at the time.

- (5) Where—
- (a) a held-over gain would, but for the provisions of section 154 of the 1992 Act, have been carried forward to a depreciating asset, and
 - (b) that asset is transferred by a relevant transfer and immediately after the coming into force of that transfer is used by the transferee for the purposes of a trade carried on by him,

that section shall have effect as if the gain had accrued to, and the claim for it to be held over had been made by, the transferee and, accordingly, as if the transferee had acquired the depreciating asset at the time when the predecessor acquired it and as if the assumptions specified in sub-paragraph (4)(c) and (d) above applied.

- (6) Expressions used in sub-paragraph (5) above which are also used in section 154 of the 1992 Act have the same meanings in that sub-paragraph as in that section.
- (7) Section 158 of the 1992 Act (extension of references to trade) shall have effect, subject to sub-paragraph (8) below, in relation to this paragraph as it has effect in relation to sections 152 to 157 of that Act.
- (8) For the purposes of this paragraph, any assets so far as used by the predecessor—
- (a) for the purposes of any part of a trade, or
 - (b) for the purposes of the whole or any part of any trade which is treated by virtue of subsection (8) of section 152 of the 1992 Act as forming a single trade with any one or more other trades,

shall be treated as used for the purposes of every part of the trade carried on by the predecessor or, as the case may be, for the purposes of every part of every trade so carried on.

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