



Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

TAXATION OF CHARGEABLE GAINS

Pooling and identification of shares etc.

123 Abolition of pooling for CGT.

^{F1}(1)

^{F2}(2)

(3) In subsection (3) of that section (interpretation), for “ “a new holding” is” there shall be substituted “ “a section 104 holding” is ”.

(4) For subsection (4) of that section there shall be substituted the following subsection—

- “(4) For the purposes of this Chapter securities of a company which are held—
- (a) by a person who acquired them as an employee of the company or of any other person, and
 - (b) on terms which for the time being restrict his right to dispose of them, shall (notwithstanding that they would otherwise fall to be treated as of the same class) be treated as of a different class from any securities acquired by him otherwise than as an employee of the company or of any other person and also from any shares that are not held subject to restrictions, or the same restrictions, on disposal or in the case of which the restrictions are no longer in force.”

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- (5) In the following enactments for the words “new holding”, wherever they occur, there shall be substituted “section 104 holding”, namely—
- ^{F3}(a)
- (b) in sections 104(6), 107 and 110 of the ^{M1}Taxation of Chargeable Gains Act 1992.
- (6) The preceding provisions of this section have effect in relation to any disposal on or after 6th April 1998 of any securities (whenever acquired).
- (7) The powers of the Treasury to make provision by regulations under one or [^{F4}more] of—
- (a) section 333 of the Taxes Act 1988 [^{F5}(investment plan regulations)],
- (a) section 151 of the ^{M2}Taxation of Chargeable Gains Act 1992 (capital gains tax and investment plans), [^{F6}and
- (c) Chapter 3 of Part 6 of the Income Tax (Trading and Other Income) Act 2005 (income from individual investment plans),]

shall include power to provide, to such extent as appears to them to be appropriate for purposes connected with the enactment of this section and section 124 below, for any provision contained in any such regulations to have effect retrospectively in relation to such times falling on or after 17th March 1998 as may be specified in the regulations.

Textual Amendments

- F1** S. 123(1) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 96\(a\)](#)
- F2** S. 123(2) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 96\(a\)](#)
- F3** S. 123(5)(a) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(i\)\(i\)](#)
- F4** Word in s. 123(7) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 504\(a\)](#) (with Sch. 2)
- F5** Words in s. 123(7)(a) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 504\(b\)](#) (with Sch. 2)
- F6** S. 123(7)(c) and preceding word added (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 504\(c\)](#) (with Sch. 2)

Marginal Citations

- M1** 1992 c. 12.
M2 1992 c. 12.

124 New identification rules for CGT.

- (1) After section 106 of the ^{M3}Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

“106A Identification of securities: general rules for capital gains tax.

- (1) This section has effect for the purposes of capital gains tax (but not corporation tax) where any securities are disposed of by any person.

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- (2) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the person making the disposal.
- (3) The provisions of this section have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—
 - (a) by the disposal, or
 - (b) by a transfer or delivery giving effect to it;but where a person disposes of securities in one capacity, they shall not be identified under those provisions with any securities which he holds, or can dispose of, only in some other capacity.
- (4) Securities disposed of on an earlier date shall be identified before securities disposed of on a later date; and, accordingly, securities disposed of by a later disposal shall not be identified with securities already identified as disposed of by an earlier disposal.
- (5) Subject to subsection (4) above, if within the period of thirty days after the disposal the person making it acquires securities of the same class, the securities disposed of shall be identified—
 - (a) with securities acquired by him within that period, rather than with other securities; and
 - (b) with securities acquired at an earlier time within that period, rather than with securities acquired at a later time within that period.
- (6) Subject to subsections (4) and (5) above, securities disposed of shall be identified with securities acquired at a later time, rather than with securities acquired at an earlier time.
- (7) Subsection (6) above shall not require securities to be identified with particular securities comprised in a section 104 holding or a 1982 holding.
- (8) Accordingly, that subsection shall have effect for determining whether, and to what extent, any securities should be identified with the whole or any part of a section 104 holding or a 1982 holding—
 - (a) as if the time of the acquisition of a section 104 holding were the time when it first came into being; and
 - (b) as if 31st March 1982 were the time of the acquisition of a 1982 holding.
- (9) The identification rules set out in the preceding provisions of this section have effect subject to subsection (1) of section 105, and securities disposed of shall not be identified with securities acquired after the disposal except in accordance with that section or subsection (5) above.
- (10) In this section—
 - “1982 holding” has the same meaning as in section 109;
 - “securities” means any securities within the meaning of section 104 or any relevant securities within the meaning of section 108.
- (11) For the purposes of this section securities of a company shall not be treated as being of the same class unless they are so treated by the practice of

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a recognised stock exchange, or would be so treated if dealt with on that recognised stock exchange.”

- (2) In subsection (1) of section 105 of that Act (disposal and acquisition on the same day), for “The following provisions” there shall be substituted “ Paragraphs (a) and (b) below ”; and for subsection (2) of that section there shall be substituted the following subsection—

“(2) Where the quantity of securities disposed of by any person exceeds the aggregate quantity of—

- (a) the securities (if any) which are required by subsection (1) above to be identified with securities acquired on the day of the disposal,
- (b) the securities (if any) which are required by any of the provisions of section 106 or 106A(5) to be identified with securities acquired after the day of the disposal, and
- (c) the securities (if any) which are required by any of the provisions of sections 104, 106, 106A or 107, or of Schedule 2, to be identified with securities acquired before the day of the disposal,

the disposal shall be treated as diminishing a quantity of securities subsequently acquired, and as so diminishing any quantity so acquired at an earlier date, rather than one so acquired at a later date.”

- (3) In section 107 of that Act (general identification rules) for subsections (1) and (2) there shall be substituted the following subsections—

“(1) This section has effect for the purposes of corporation tax where any securities are disposed of by a company.

(1A) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the company making the disposal and could be comprised in that disposal.

(2) The provisions of this section have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—

- (a) by the disposal, or
- (b) by a transfer or delivery giving effect to it;

but where a company disposes of securities in one capacity, they shall not be identified with securities which it holds, or can dispose of, only in some other capacity.”

- (4) In section 108 of that Act (relevant securities), at the beginning there shall be inserted the following subsection—

“(A1) This section has effect for the purposes of corporation tax where any relevant securities are disposed of by a company.”

- (5) In that section—

- (a) in subsections (2) and (7), for “person”, in each place where it occurs, there shall be substituted “ company ”; and
- (b) in subsection (2), for “him” and “he” there shall be substituted, respectively, “ the company ” and “ it ”.

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- (6) In each of section 151B(1) and (7) of that Act and paragraph 4(2) of Schedule 5C to that Act (disapplication of share pooling and identification rules in relation to shares in a VCT), for “107” there shall be substituted “ 106A ”.
- (7) Subject to subsection (8) below, the preceding provisions of this section have effect in relation to any disposal on or after 6th April 1998.
- (8) For the purposes of capital gains tax for the year 1997-98 (but not for the purposes of corporation tax), the following provisions have effect in relation to any disposal of securities made on or after 17th March 1998 and before 6th April 1998, that is to say—
 - (a) the identification rule in subsection (5) of the section 106A of the ^{M4}Taxation of Chargeable Gains Act 1992 set out in subsection (1) above shall apply in accordance with subsections (3) and (4) of that section;
 - (b) that rule shall have priority over any other rule, except the one in section 105(1) of that Act; and
 - (c) section 104(1) of that Act shall not apply to any securities identified by virtue of this subsection with the securities disposed of.
- (9) In subsection (8) above “securities” means any securities within the meaning of section 104 of the ^{M5}Taxation of Chargeable Gains Act 1992 or any relevant securities within the meaning of section 108 of that Act.

Marginal Citations

- M3** 1992 c. 12.
M4 1992 c.12.
M5 1992 c. 12.

125 Indexation and share pooling etc.

- (1) In subsection (1) of section 110 of the ^{M6}Taxation of Chargeable Gains Act 1992 (indexation allowance for section 104 holdings), for “This” there shall be substituted “ For the purposes of corporation tax this ”.
- ^{F7}(2)
- ^{F8}(3)
- (4) Subject to subsection (5) below, the preceding provisions of this section have effect in relation to disposals on or after 6th April 1998.
- (5) This section does not affect the computation of the amount of so much of any gain as—
 - (a) is treated for the purposes of the taxation of chargeable gains as having accrued on a disposal on or after 6th April 1998; but
 - (b) is taken for those purposes to be equal to the whole or any part of a gain that—
 - (i) would (but for any enactment relating to the taxation of chargeable gains) have accrued on an actual disposal made before that date, or
 - (ii) would have accrued on a disposal assumed under any such enactment to have been made before that date.

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Textual Amendments

- F7** S. 125(2) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 96(b)**
- F8** S. 125(3) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 96(b)**
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Marginal Citations

- M6** 1992 c. 12.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1998, Cross Heading:
Pooling and identification of shares etc..