
STATUTORY INSTRUMENTS

1994 No. 3226

**The Exchange Gains and Losses
(Transitional Provisions) Regulations 1994**

PART III

**PRE—COMMENCEMENT GAINS AND LOSSES: CASE
I ASSETS AND LIABILITIES AND CAPITAL ASSETS**

Attributed gains and losses: regulation 6(3) assets

9.—(1) This regulation applies in relation to any regulation 6(3) asset held by a qualifying company a disposal of which by that company immediately before its commencement day at the asset's market value at that time would have given rise to a chargeable gain or allowable loss, but does not apply in any case where any such disposal of the asset by the company would fall within section 116(10)(b) of the 1992 Act.

(2) Subject to paragraph (3) below, an amount equal to any chargeable gain or allowable loss (as the case may be) which would have accrued to the company had it disposed of the asset as mentioned in paragraph (1) above shall be attributed to the asset and—

- (a) if a chargeable gain would have accrued, it shall be attributed as a gain, and
- (b) if an allowable loss would have accrued, it shall be attributed as a loss.

(3) In any case where—

- (a) the asset was held by a company which at any time before its commencement day was not resident in the United Kingdom, and
- (b) if the asset had been disposed of at that time and a gain had accrued to the company on that disposal, it would not have been included in the company's chargeable profits by virtue of section 10(3) of the 1992 Act,

then for the purposes of paragraph (1) above the company shall be deemed to have acquired the asset, at market value, on the first day on which any gain which would have accrued to the company if the asset had been disposed of on that day (assuming that the disposal gave rise to a gain and disregarding any allowable losses which might be available for deduction under section 8(1) of, or Schedule 7A to, the 1992 Act⁽¹⁾) would have been included in the company's chargeable profits for the purposes of corporation tax (whether because the company became resident or the asset became situated in the United Kingdom on that day or for any other reason).

(4) In any case where the company referred to in paragraph (1) above acquired the asset on a no gain/no loss disposal, then the reference in paragraph (3) above to a company includes the company from which it acquired the asset, and if that company also acquired the asset on such a disposal, to the company from which it acquired the asset, and so on for a series of such disposals.

(5) The disposal referred to in paragraph (1) above shall be taken not to be a no gain/ no loss disposal, and for the purposes of this regulation a disposal is a no gain/no loss disposal if, by virtue

⁽¹⁾ Schedule 7A was inserted by section 88(2) of the Finance Act 1993.

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of any enactment specified in section 35(3)(d)(2) of the 1992 Act, neither a gain nor a loss accrues to the person making the disposal.

(6) In any case where section 176 of the 1992 Act would have applied in relation to the disposal referred to in paragraph (1) above if that disposal had actually taken place, that section shall apply for the calculation of any allowable loss for the purposes of that paragraph.

(7) Any expression used in this regulation which is not defined in Chapter II shall have the same meaning as in the 1992 Act.

(2) Section 35(3)(d) was amended by section 46 of, and paragraph 21(2) of Schedule 9 and paragraph 5(9) of Schedule 17 to, the Finance (No. 2) Act 1992 and by paragraph 2(2) of Schedule 24 to the Finance Act 1994.