-- On a share redemption, 84(3) provides for a deemed dividend to the extent the amount paid on redemption exceeds the paid-up capital (PUC) of the shares. If the shareholder is a corporation, the deemed dividend will normally pass tax-free due to 82(1)(a) and 112(1) ; but 55(2) may deem the dividend to be a capital gain if the effect is to strip capital gains from the value of the redeeming corp's shares; or the stop-loss rules in s. 112 or Part IV tax in 186(1) may apply. If the shares are preferred shares, Part VI.1 tax may apply to the corp. If the shareholder is non-resident, the deemed dividend is subject to withholding tax under 212(2) : VIEWS doc 2005-0159711E5 (and Canada-US Treaty Art. X:2 reduces the withholding tax rate:

Notes

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The amount "paid by the corporation" on redemption includes unpaid amounts owing on the purchase: *Cabezuelo,* [1983] C.T.C. 2775; *Belair,* [1989] 2 C.T.C. 2186; 1984 CTF conference Round Table q. 45 (p. 818); VIEWS doc 2005-0145891E5. It also includes an amount payable later due to a price adjustment clause: 2011-0422191E5 (the extra tax is payable in the year of receipt of the additional payment: 2013-0507881E5). Where shares owned by a partnership were cancelled for no consideration on transfer of the partnership interests to the corp, 84(3) did not apply: 2018-0745681E5.

Like the rest of s. 84, 84(3) ensures that PUC can be returned to the shareholder free of tax but that any excess is treated as a dividend. 84.1, 85(2.1), 87(3) and other provisions ensure that PUC cannot be artificially increased through corporate reorganizations. "Simply because PUC was validly created does not mean that it may be validly preserved": *Copthorne Holdings,* 2011 SCC 63, para. 99 (so a restructuring to avoid the cancellation of PUC under 87(3) violated GAAR under 245(2)).

On interaction with 55(2) and surplus stripping, see VIEWS doc 2012-0434501E5. On application of 40(3.6) to deem a loss from an 84(3) deemed dividend to be nil, see 2011-0427461E5. On interaction with 261 (functional currency rules) see 2016-0642111C6 [2016 IFA q.3] [Wach, "Paid-up Capital of Shares held by a Functional-Currency Reporter", 65(4) *Canadian Tax Journal* 1001-20 (2017)]. Capital loss consolidation: 2018-0772921R3. Where the redemption triggers change in control of the corp: 2021-0883191C6 [2021 STEP q.10]. On share repurchase to fulfill an indemnity after a triangular amalgamation: 2021-0911841C6 [2021 CTF q.1]. A continuance from CBCA to Ont. *Cooperative Corporations Act* did not trigger 84(3): 2021-0916821R3. 84(3) can apply to shares issued to a vendor and held in escrow, cancelled to satisfy a post-closing purchase price reduction: 2023-0949771C6 [2022 CTF q.3].

84(3) did not apply in *McClarty Family Trust,* 2012 TCC 80, to transactions that resulted in the conversion of dividend income to capital gains in the hands of trust beneficiaries: "The manner in which each person who holds the redeemed, acquired or cancelled shares came to be in possession of the shares is not what needs to be determined under subsection 84(3)" (para. 63).

PUC is calculated under 89(1) by class, not by individual shareholder, so issuance of new shares can change existing shareholders' PUC. However, artificial averaging "up" of PUC using this technique might contravene the general anti-avoidance rule: *Nadeau,* [1999] 3 C.T.C. 2235 (TCC) .

A deemed dividend on a share redemption can trigger Part IV tax. See Notes to 186(1).

84(3) can apply where an employee sells stock-option shares back to the employer corporation. See Notes to 7(1).

When 84(3) applies, the corporation must report the dividend by issuing a T5, unless 84(8) applied (Reg. 201(1)(a)).

On the redemption of shares held by a non-resident where the shares are taxable Canadian property (value primarily attributable to Canadian real estate), withholding applies under *both*212(2) and 116(5); the International TSO would have to be contacted for any administrative relief: VIEWS doc 2010-0387151E5.

On the redemption of publicly listed shares held by a specified financial institution, the deemed “separate class” poses a potential problem. See Notes to Reg. 6201(2).

Where 69(1)(b) applies because the shares' FMV exceeds the redemption amount, the excess is not considered “paid” for purposes of 84(3) so as to increase the deemed dividend, so it is capital gain: VIEWS docs 2004-0091781I7, 2004-0086821C6, 2012-0450821I7.

84(3) does not apply to a redemption by a non-resident corporation (including one non-resident due to 250(5)), which is treated as an ordinary disposition.

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