

Reduced rate of capital gains tax on certain disposals of shares by individuals. FA94 s66(1) to (8); FA96 s63(1); FA97 s76, s146(1) and Sch9 Ptl par 18(3) 592.—(1) In this section—

“disposal” does not include a relevant disposal within the meaning of section 648;

“ordinary share capital” has the same meaning as in section 2;

“ordinary shares” means shares forming part of a company's ordinary share capital;

“period of ownership”, in relation to an individual making a disposal of qualifying shares, means the individual's period of continuous ownership of the shares in the same capacity ending on the date of such disposal and, for the purposes of this definition, where the shares were acquired by the individual on the death of that individual's spouse so that the individual's period of ownership would apart from this definition be treated as having commenced on the date of that death, the individual's period of ownership shall be deemed to be extended to include the individual's spouse's period of ownership ending on that date;

“qualifying company” shall be construed in accordance with subsection (2);

“qualifying shares”, in relation to a company, means ordinary shares of the company which are fully paid up and which carry no present or future preferential rights to dividends or to the company's assets on its winding up and no present or future preferential right to be redeemed;

“qualifying trade” shall be construed in accordance with subsection (4);

“qualifying trading operations”, in relation to a trade, means all the operations of the trade excluding those of dealing in shares, securities, land, currencies, futures or traded options;

“the specified period”, in relation to the disposal of qualifying shares, means the period of 3 years immediately preceding the date of the disposal of those shares;

“trade” includes a profession, and “qualifying trade” and “qualifying trading operations” shall be construed accordingly;

“unquoted company” means a company none of whose shares, stocks or debentures are listed in the official list of a stock exchange or quoted on an unlisted securities market.

(2) For the purposes of this section, a company shall be a qualifying company in relation to the disposal of qualifying shares where—

(a) at the date of acquisition of those shares, it is an unquoted company which is resident in the State and not resident elsewhere and which has an issued share capital the market value of which is not more than £25,000,000, and

(b) throughout the specified period, it is a company which is resident in the State and not resident elsewhere and—

(i) which exists wholly or mainly for the purposes of the carrying on of one or more qualifying trades, or

(ii) the business of which consists—

(I) wholly or mainly of the holding of shares in one or more connected companies, or

(II) wholly or mainly of both the holding of such shares and the carrying on of one or more qualifying trades.

(3) (a) A company shall be regarded as having satisfied the condition referred to in subsection (2)(b)(i) only if throughout the specified period not less than 75 per cent of the market value of all the issued share capital of the company derives from the carrying on by the company of one or more qualifying trades.

(b) A company shall be regarded as having satisfied the condition referred to in clause (I) or (II), as the case may be, of subsection (2)(b)(ii) only if throughout the specified period not less than 75 per cent of the market value of all the issued share capital of the company derives from the carrying on of one or more qualifying trades by the connected companies or, as the case may be, by the company and the connected companies.

(c) In a case where a connected company (in this paragraph referred to as “the first-mentioned company”) is a company whose business consists of the holding of shares in one or more companies, references in paragraph (b) to the connected companies shall be construed as including references to the companies which are connected with the first-mentioned company.

(4) For the purposes of this section, a trade shall be a qualifying trade if throughout the specified period it consists of qualifying trading operations and, where during that period a trade consists partly of qualifying trading operations and partly of other trading operations, the part of the trade which consists of other trading operations shall be treated as a separate trade.

(5) For the purposes of this section, where a company (in this subsection referred to as “the first-mentioned company”) holds shares in another company, that other company shall be regarded as connected with the first-mentioned company if—

(a) at the date of the acquisition of those shares by the first-mentioned company it was an unquoted company,

(b) it is resident in the State and not resident elsewhere, and

(c) not less than 20 per cent of the total voting rights in the company are exercisable by the first-mentioned company.

(6) As respects chargeable gains accruing to an individual on the disposal of qualifying shares in a qualifying company in a case where the individual's period of ownership of those shares is not less than 3 years, section 28 (3) shall apply as if the reference in that section to 40 per cent were a reference to 26 per cent.

(7) (a) In this subsection and in subsection (8), “original shares” and “new holding” have the same meanings respectively as in section 584.

(b) If the time when an individual acquires qualifying shares would be determined under section 584, 585, 586 or 587, it shall be determined in the same way for the purposes of this section where the following conditions are satisfied—

(i) both the original shares and the new holding constitute qualifying shares, and

(ii) the individual is not treated under section 584 (4) as giving or becoming liable to give any consideration, other than the original shares, for the acquisition of the new holding.

(8) (a) In a case where subsection (7)(b) applies and the new holding is held for a period of not less than 3 years, subsection (2) shall apply as if—

(i) in paragraph (a) of that subsection “at the date of acquisition of the original shares” were substituted for “at the date of acquisition of those shares”,

(ii) where the company in which the new holding subsists is not the company in which the original shares subsisted, in paragraph (a) of that subsection “the company in which the original shares subsisted is” were substituted for “it is”, and

(iii) in paragraph (b) of that subsection “the company in which the new holding subsists is” were substituted for “it is”.

(b) In a case where subsection (7)(b) applies and the new holding is held for a period of less than 3 years, subsection (2) shall apply—

(i) as if in paragraph (a) of that subsection “at the date of acquisition of the original shares” were substituted for “at the date of acquisition of those shares”, and

(ii) where the company in which the new holding subsists is not the company in which the original shares subsisted as if—

(I) in paragraph (a) of that subsection “the company in which the original shares subsisted is” were substituted for “it is”,

(II) in paragraph (b) of that subsection “throughout that part of the specified period commencing on the date of the acquisition of the new holding, the company in which the new holding subsists is” were substituted for “throughout the specified period, it is”, and

(III) the conditions referred to in paragraph (b) of that subsection applied also to the company in which the original shares subsisted but only in relation to the part of the specified period which does not include the part of that period mentioned in clause (II).