

Reorganisation or reduction of share capital. CGTA75 s51(1) and Sch2 par2(1) to (7) and (9); CGT(A)A78 s16 and Sch1 par5 584.—(1) In this section—

“new holding”, in relation to any original shares, means the shares in and debentures of the company which as a result of the reorganisation or reduction of capital represent the original shares (including such, if any, of the original shares as remain);

“original shares” means shares held before and concerned in the reorganisation or reduction of capital;

references to a reorganisation of a company's share capital include—

(a) any case where persons are, whether for payment or not, allotted shares in or debentures of the company in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of shares in the company or of any class of shares in the company, and

(b) any case where there is more than one class of shares and the rights attached to shares of any class are altered;

references to a reduction of share capital do not include the paying off of redeemable share capital and, where shares in a company are redeemable by the company otherwise than by the issue of shares or debentures (with or without other consideration) and otherwise than in a liquidation, the shareholder shall be treated as disposing of the shares at the time of the redemption.

(2) This section shall apply for the purposes of the Capital Gains Tax Acts in relation to any reorganisation or reduction of a company's share capital.

(3) Subject to subsections (4) to (8), a reorganisation or reduction of a company's share capital shall not be treated as involving any disposal of the original shares or any acquisition of the new holding or any part of it; but the original shares (taken as a single asset) and the new holding (taken as a single asset) shall be treated as the same asset acquired as the original shares were acquired.

(4) (a) Where on a reorganisation or reduction of a company's share capital a person gives or becomes liable to give any consideration for such person's new holding or any part of it, that consideration shall, in the computation of a gain accruing to such person on a disposal of the new holding or any part of it, be deemed for the purposes of section 556 to be expenditure incurred on the date the consideration was given and, if the new holding or part of it is disposed of with a liability attaching to it in respect of that consideration, the consideration given for the disposal shall be adjusted accordingly.

(b) Notwithstanding paragraph (a), there shall not be treated as consideration given for the acquisition of the new holding—

(i) any surrender, cancellation or other alteration of the original shares or of the rights attached to the original shares, or

(ii) any consideration consisting of any application, in paying up the shares or debentures or any part of them, of any assets of the company, or of any dividend or other distribution declared out of those assets but not made;

but, if section 816 applies in relation to the issue of any of the shares, the sum in cash which the person would have received if the person had not exercised the option to receive additional share capital instead of a sum in cash shall be treated for the purposes of this subsection as consideration given for those shares.

(5) Where on a reorganisation or reduction of a company's share capital a person receives (or is deemed to receive), or becomes entitled to receive, any consideration other than the new holding for the disposal of an interest in the original shares, and in particular—

(a) where under section 583 such person is to be treated as if such person had in consideration of a capital distribution disposed of an interest in the original shares, or

(b) where such person receives (or is deemed to receive) a consideration from other shareholders in respect of a surrender of rights derived from the original shares,

such person shall be treated as if the new holding resulted from such person having for that consideration disposed of an interest in the original shares (but without prejudice to the original shares and the new holding being treated in accordance with subsection (3) as the same asset).

(6) Where, for the purpose of computing the gain or loss accruing to a person from the acquisition and disposal of any part of the new holding, it is necessary to apportion the cost of acquisition of any of the original shares between the part which is disposed of and the part which is retained, the apportionment shall be made by reference to market value at the date of the disposal (with such adjustment of the market value of any part of the new holding as may be required to offset any liability attaching to the new holding but forming part of the cost to be apportioned), and any corresponding apportionment for the purposes of subsection (5) shall be made in the like manner.

(7) Notwithstanding subsection (6)—

(a) where a new holding—

(i) consists of more than one class of shares in or debentures of the company and one or more of those classes is of shares or debentures which, at any time not later than the end of the period of 3 months beginning on the date on which the reorganisation or reduction of capital took effect, or of such longer period as the Revenue Commissioners may by notice in writing allow, had quoted market values on a recognised stock exchange in the State or elsewhere, or

(ii) consists of more than one class of rights of unit holders and one or more of those classes is of rights the prices of which were published regularly by the managers of the scheme at any time not later than the end of that period of 3 months (or longer if so allowed), and

(b) where, for the purpose of computing the gain or loss accruing to a person from the acquisition and disposal of the whole or any part of any class of shares or securities or rights of unit holders forming part of a new holding of the kind referred to in paragraph (a), it is necessary to apportion costs of acquisition between the part that is disposed of and the part that is retained,

then, the cost of acquisition of the new holding shall first be apportioned between the entire classes of shares or debentures or rights of which it consists by reference to market value on the first day (whether that day fell before the reorganisation or reduction of capital took effect or later) on which market values or prices were quoted or published for the shares, debentures or rights mentioned in paragraph (a) or (b) (with such adjustment of the market value of any class as may be required to offset any liability attaching thereto but forming part of the cost to be apportioned) and, for the purposes of this subsection, the day on which a reorganisation of share capital involving the allotment of shares or debentures or unit holders' rights takes effect shall be the day following the day on which the right to renounce any allotment expires.

(8) Where a person receives or becomes entitled to receive in respect of any shares in or debentures of a company a provisional allotment of shares in or debentures of the company and such person disposes of such person's rights, section 583 shall apply as if the amount of the consideration for the disposal were a capital distribution received by such person from the company in respect of the first-mentioned shares, and as if such person had, instead of disposing of the rights, disposed of an interest in those shares.