

Deduction of offshore income gain in determining capital gain. FA90 s69(1) to (7) 747.—(1) This section shall apply where a disposal (being a disposal to which this Chapter applies) gives rise to an offshore income gain and, if that disposal also constitutes the disposal of the interest concerned for the purposes of the Capital Gains Tax Acts, that disposal is referred to in this section as “the disposal for the purposes of the Capital Gains Tax Acts”.

(2) So far as relates to an offshore income gain which arises on a material disposal of Schedule 20), subsections (3) and (4) shall apply in relation to the disposal for the purposes of the Capital Gains Tax Acts in substitution for section 551 (2).

(3) Subject to subsections (4) to (7), in the computation in accordance with the Capital Gains Tax Acts of any gain accruing on the disposal for the purposes of those Acts, a sum equal to the offshore income gain shall be deducted from the sum which would otherwise constitute the amount or value of the consideration for the disposal.

(4) Where the disposal for the purposes of the Capital Gains Tax Acts is of such a nature that by virtue of section 557 an apportionment is to be made of certain expenditure, no deduction shall be made by virtue of subsection (3) in determining for the purposes of the apportionment in section 557 (2) the amount or value of the consideration for the disposal.

(5) Where the disposal for the purposes of the Capital Gains Tax Acts forms part of a transfer to which section 600 applies, then, for the purposes of subsection (5)(b) of that section, the value of the whole of the consideration received by the transferor in exchange for the business shall be taken to be what it would be if the value of the consideration (other than shares so received by the transferor) were reduced by a sum equal to the offshore income gain.

(6) Where the disposal to which this Chapter applies constitutes such a disposal by virtue of section 741 (6) or 742 (5), the Capital Gains Tax Acts shall apply as if an amount equal to the offshore income gain to which the disposal gives rise were given (by the person making the exchange concerned) as consideration for the new holding (1).

(7) In any case where—

(a) a disposal to which this Chapter applies by virtue of subsection (3) of section 742 is made otherwise than to the offshore fund concerned or to the persons referred to in subsection (2)(b) of that section,

(b) subsequently a distribution which is referable to the asset disposed of is paid either to the person who made the disposal or to a person connected with such person, and

(c) the disposal gives rise of Schedule 20) to an offshore income gain,

then, for the purposes of the Tax Acts, the amount of the first distribution within paragraph (b) shall

be taken to be reduced or, as the case may be, extinguished by deducting from such amount an amount equal to the offshore income gain referred to in paragraph (c) and, if that amount exceeds the amount of that first distribution, the balance shall be set against the second and, where necessary, any subsequent distribution within paragraph (b) until the balance is exhausted.