

Taxation of income deemed to arise on certain sales of securities. FA84 s29(1) to (3)(a) and (4) to (5); FA91 s27; FA93 s21; FA94 s26 815.—(1) In this section—

“owner”, in relation to securities, means at any time the person who would be entitled, if the securities were redeemed at that time by the person who issued them, to the proceeds of the redemption;

“securities” includes—

(a) assets which are not chargeable assets for the purposes of capital gains tax by virtue of section 607, and

(b) stocks, bonds and obligations of any government, municipal corporation, company or other body corporate, whether creating or evidencing a charge on assets or not,

but does not include shares ) of a company (within the meaning of that Act) or similar body.

(2) (a) Subject to paragraphs (b) to (d) and subsection (3), where the owner of a security (in this subsection referred to as “the owner”) sells or transfers, or causes or authorises to be sold or transferred, the security and where any interest payable in respect of the security is receivable otherwise than by the owner, then, for the purposes of this section—

(i) interest payable in respect of the security shall be deemed for the purposes of the Tax Acts to have accrued on a day to day basis from the date on which the owner acquired the security, and

(ii) the owner shall be chargeable under Case IV of Schedule D on interest so deemed to have accrued from that date up to the date of the contract for sale or transfer of the security or the date of payment of the consideration in respect of the sale or transfer, whichever is the later.

(b) Where during the owner's period of ownership of the security the owner has received interest in respect of the security in respect of which the owner is chargeable to tax under any other provision of the Tax Acts, the amount of interest on which the owner is chargeable under this section shall be reduced by the amount in respect of which the owner is so chargeable under that other provision.

(c) Where under the terms of the sale or transfer of the security or an associated agreement, arrangement, understanding, promise or undertaking, whether express or implied, the owner—

(i) agrees to buy back or reacquire the security, or

(ii) acquires an option which the owner subsequently exercises to buy back or reacquire the security,

the charge to tax imposed under this section shall be based on the interest deemed to have accrued up to the next date after that sale or transfer on which interest is payable in respect of the security.

(d) Where the owner subsequently resells or retransfers, or causes or authorises to be resold or retransferred, the security, any further charge to tax under this section in respect of that subsequent resale or retransfer shall be based on interest deemed to have accrued from a date not earlier than that next payment date.

(3) This section shall not apply—

(a) where the security has been held by the same owner for a continuous period of at least 2 years immediately before the date of such contract for sale or transfer or the date of such payment of consideration, whichever is the later, as is referred to in subsection (2)(a), the personal representatives of a deceased person whose estate is in the course of administration and the deceased person being regarded for the purposes of this paragraph as being the same owner,

(b) where the owner is a person carrying on a trade which consists wholly or partly of dealing in securities, the profits of which are chargeable to income tax or corporation tax under Case I of Schedule D for the year of assessment or, as the case may be, the accounting period in respect of which the consideration for the sale is taken into account in computing for the purposes of assessment to income tax or corporation tax for that year or accounting period the profits of the trade,

(c) where—

(i) the owner is an undertaking for collective investment ), and

(ii) any gain or loss accruing to the owner on the sale or transfer is a chargeable gain or an allowable loss, as the case may be,

(d) where the sale or transfer is a sale or transfer by a wife to her husband at a time when she is treated as living with him for income tax purposes as provided in section 1015, or a sale or transfer by a husband to a wife at such time, the husband and the wife being regarded for the purposes of paragraph (a), in the case of such a transaction or in the case of a sale or transfer by the husband or the wife to any other person after such a transaction or transactions, as being the same owner, or

(e) where the security is a security the interest on which is treated as a distribution for the purposes of the Corporation Tax Acts.

(4) The reference in subsection (2)(c) to buying back or reacquiring the security shall be deemed to include references to buying or acquiring a similar security, and securities shall be so deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.

(5) (a) For the purposes of identifying securities acquired by an owner with securities included in a sale or transfer by the owner, in so far as the securities are of the same class, securities acquired at a later date shall be deemed to be so included before securities acquired at an earlier date.

(b) Securities shall be regarded as being of the same class where they entitle their owners to the same rights against the same person as to capital and interest and the same remedies for the enforcement of those rights.

(6) (a) Without prejudice to any other provision of the Tax Acts requiring the disclosure of information, an inspector may by notice in writing require any person to whom paragraph (b) applies to furnish within the time specified in the notice such particulars as the inspector considers necessary for the purposes of this section and for the purpose of determining whether a charge to tax arises under this section.

(b) This paragraph shall apply to—

(i) a person who issues a security,

(ii) any agent of such a person, and

(iii) an owner of a security.