Computation of companies' chargeable gains (S.78)

Part 04-05-02

This document should be read in conjunction with section 78
of the Taxes Consolidation Act 1997

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Introduction

Section 78 of the Taxes Consolidation Act 1997 ("TCA 1997") provides for the computation of companies' chargeable gains. For Corporation Tax ("CT") purposes, chargeable gains are computed in accordance with Capital Gains Tax ("CGT") principles. The net gains are recalculated to give an amount which, when charged at the normal CT rate, produces the same tax result as if the net gains were charged at the appropriate CGT rate.

Application

For CT purposes, chargeable gains are computed in accordance with CGT principles. However, for the purposes of including chargeable gains in a company's CT computation, the chargeable gain is recalculated to give an amount which, when charged at the appropriate CT rate, produces the same result as if the gains were charged at the appropriate CGT rate.

Subject to exceptions provided for in the Capital Gains Tax Acts, the CGT rate is 33% for disposals on, or after, 6 December 2012.

For CT purposes, the chargeable gain is included in the CT computation. The amount included in respect of chargeable gains in a company's total profits for any accounting period is the total amount accruing to it in that period after deducting any allowable losses and after the net amount is adjusted as above. The liability is assessed for the accounting period in which the gain is accrued and is included with any other profits of the accounting period.

Capital losses to be deducted (computed on the same principles as chargeable gains) are those accruing in the accounting period and those of previous accounting periods so far as not deducted from previous chargeable gains.

Chargeable gains accruing before 1976-77 are not taken into account, but allowable losses accrued in 1974/75 or 1975/76, in so far as they cannot be allowed against chargeable gains for those years for CGT purposes, are allowable against gains chargeable to CT.

A loss is not deductible if it arises in such circumstances that, if it had been a gain, it would not have been chargeable to CT.

Where, in any accounting period, allowable losses exceed chargeable gains, the excess cannot, however, be set against income in computing profits for the purpose of CT.

The computation of chargeable gains is, in general, to be made in accordance with CGT principles as if accounting periods were years of assessment, and as if references to Income Tax were references to CT. The CGT instructions, with any necessary adaptations, should be observed.

As regards gains accruing to non-resident companies, see Tax and Duty Manual (TDM) Part 02-02-04.

In the case of a company in liquidation, acquisitions by the company from, and disposals by it to, the liquidator are disregarded.

The instructions in TDM Part 19-02-10 as to allowance of interest charged to capital by certain companies as a deduction in computing a capital gain on the disposal of a building, structure or work may be taken to apply for CT as well as for CGT. **Section 552(3) TCA 1997** applies only to a gain in respect of which the company is chargeable to CGT but **section 553 TCA 1997** contains similar provisions for CT.

Part 20, TCA 1997 is concerned mainly with the treatment of chargeable gains in special situations involving groups of companies. Comprehensive instructions are contained in TDM Part 20-01-02 et seq.