Finance Act 2006

2006 CHAPTER 25

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 7

CHARGEABLE GAINS

Capital losses

69 Restriction on a company's allowable losses

(1) Section 8 of TCGA 1992 (company's total profits to include chargeable gains) is amended as follows.

(2) In subsection (2) (exclusion of loss as allowable loss)—

(a) for "does not include a loss" substitute "does not include—

(a) a loss", and

(b) at the end insert ", or

(b) a loss accruing to a company in disqualifying circumstances (see subsection (2A))".

(3) After subsection (2) insert—

"(2A) For the purposes of subsection (2)(b), a loss accrues to a company in disqualifying circumstances if—

(a) it accrues to the company directly or indirectly in consequence of, or otherwise in connection with, any arrangements, and

(b) the main purpose, or one of the main purposes, of the arrangements is to secure a tax advantage.

(2B) For the purposes of subsection (2A)—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and

"tax advantage" has the meaning given by section 184D.

(2C) For the purposes of subsection (2A) it does not matter—

(a) whether the loss accrues at a time when there are no chargeable gains from which it could otherwise have been deducted, or

(b) whether the tax advantage is secured for the company or for any other company.".

(4) In section 834(1) of ICTA (interpretation of the Corporation Tax Acts), in the definition of "allowable loss", at the end insert "or a loss accruing to a company in disqualifying circumstances (within the meaning of section 8(2)(b) of the 1992 Act)".

(5) The amendments made by this section have effect in relation to any loss accruing on any disposal that is made on or after 5th December 2005.

70 Restrictions on companies buying losses or gains

(1) TCGA 1992 is amended as follows.

(2) After section 184 insert—

"Restrictions on buying losses or gains etc

184A Restrictions on buying losses: tax avoidance schemes

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if—

(a) at any time ("the relevant time") there is a qualifying change of ownership in relation to a company ("the relevant company") (see section 184C),

(b) a loss (a "qualifying loss") accrues to the relevant company or any other company on a disposal of a pre-change asset (see subsection (3)),

(c) the change of ownership occurs directly or indirectly in consequence of, or otherwise in connection with, any arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage (see section 184D), and

(d) the advantage involves the deduction of a qualifying loss from any chargeable gains (whether or not it also involves anything else).

(2) A qualifying loss accruing to a company is not to be deductible from chargeable gains accruing to the company unless the gains accrue to the company on a disposal of a pre-change asset.

(3) In this section a "pre-change asset" means an asset which was held by the relevant company before the relevant time (but see also sections 184E and 184F).

(4) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(5) For the purposes of this section it does not matter—
 (a) whether a qualifying loss accrues before, after or at the relevant time,
 (b) whether a qualifying loss accrues at a time when there are no chargeable gains from which it could be deducted (or could otherwise have been deducted), or
 (c) whether the tax advantage is secured for the company to which a qualifying loss accrues or for any other company.

184B Restrictions on buying gains: tax avoidance schemes

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if—
 (a) at any time (“the relevant time”) there is a qualifying change of ownership in relation to a company (“the relevant company”) (see section 184C),
 (b) a gain (a “qualifying gain”) accrues to the relevant company or any other company on a disposal of a pre-change asset (see subsection (3)),
 (c) the change of ownership occurs directly or indirectly in consequence of, or otherwise in connection with, any arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage, and
 (d) the advantage involves the deduction of a loss from a qualifying gain (whether or not it also involves anything else).

(2) In the case of a qualifying gain accruing to a company, a loss accruing to the company is not to be deductible from the gain unless the loss accrues to the company on a disposal of a pre-change asset.

(3) In this section a “pre-change asset” means an asset which was held by the relevant company before the relevant time (but see also sections 184E and 184F).

(4) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(5) For the purposes of this section it does not matter—
 (a) whether a qualifying gain accrues before, after or at the relevant time,
 (b) whether a qualifying gain accrues at a time when there are no losses which could be deducted (or could otherwise have been deducted) from the gain, or
 (c) whether the tax advantage is secured for the company to which a qualifying gain accrues or for any other company.

184C Sections 184A and 184B: meaning of "qualifying change of ownership"

(1) For the purposes of sections 184A and 184B, there is a qualifying change of ownership in relation to a company at any time if any one or more of the following occur at that time—

(a) the company joins a group of companies (see subsections (2) to (5)),

(b) the company ceases to be a member of a group of companies,

(c) the company becomes subject to different control (see subsections (6) to (9)).

(2) Whether a company is a member of a group of companies at any time is determined in accordance with section 170.

(3) But, apart from in the excepted case, nothing in section 170(10) or (10A) is to prevent all the companies of one group from being regarded as joining another group when the principal company of the first group becomes a member of the other group at any time.

(4) The excepted case is the case where—

(a) the persons owning the shares of the principal company of the first group immediately before that time are the same as the persons owning the shares of the principal company of the other group immediately after that time,

(b) the principal company of the other group was not the principal company of any group immediately before that time, and

(c) immediately after that time the principal company of the other group had assets consisting entirely (or almost entirely) of shares of the principal company of the first group.

(5) For this purpose, references to shares of a company are to the shares comprised in the issued share capital of the company.

(6) The general rule is that a company becomes subject to different control at any time if any one or more of the following occur—

(a) a person has control of the company at that time (whether alone or together with one or more others) and the person did not previously have control of the company,

(b) a person has control of the company at that time together with one or more others and the person previously had control of the company alone,

(c) a person ceases to have control of the company at that time (whether the person had control alone or together with one or more others).

(7) The general rule is subject to the following exceptions.

(8) A company does not become subject to different control in any case where it joins a group of companies and the case is the excepted case mentioned above.

(9) A company ("the subsidiary") does not become subject to different control at any time in any case where—

(a) immediately before that time the subsidiary is the 75 per cent. subsidiary of another company, and

(b) (although there is a change in the direct ownership of the subsidiary) that other company continues immediately after that time to own it as a 75 per cent. subsidiary.

184D Sections 184A and 184B: meaning of "tax advantage"

For the purposes of sections 184A and 184B, "tax advantage" means—

(a) relief or increased relief from corporation tax,

(b) repayment or increased repayment of corporation tax,

(c) the avoidance or reduction of a charge to corporation tax or an assessment to corporation tax, or

(d) the avoidance of a possible assessment to corporation tax.

184E Sections 184A and 184B: "pre-change assets": basic rules

(1) If—

(a) a company other than the relevant company makes a disposal of an asset, and

(b) the asset has been disposed of at any time after the relevant time by a disposal to which section 171(1) does not apply (a "non-section 171(1) transfer"),

the asset ceases to be regarded as a pre-change asset for the purposes of sections 184A and 184B (but see also subsections (10) and (11)).

(2) But (without affecting the generality of the provision made by the following subsection) if, on a non-section 171(1) transfer,—

(a) an asset would cease to be regarded as a pre-change asset as a result of subsection (1), and

(b) the company making the non-section 171(1) transfer retains any interest in or over the asset,

that interest is to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(3) If—

(a) the relevant company or any other company holds an asset ("the new asset") at or after the relevant time,

(b) the value of the new asset derives in whole or in part from a pre-change asset, and

(c) the new asset is not acquired by the company concerned as a result of a non-section 171(1) transfer,

the new asset is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(4) For this purpose the cases in which the value of an asset may be derived from any other asset include any case where—

(a) assets have been merged or divided,

(b) assets have changed their nature, or

(c) rights or interests in or over assets have been created or extinguished.

(5) If a pre-change asset is "the old asset" for the purposes of section 116 (reorganisations, conversions and reconstructions), "the new asset" for the

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purposes of that section is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(6) If a pre-change asset is the "original shares" for the purposes of sections 127 to 131 (reorganisation or reduction of share capital), the "new holding" for the purposes of those sections is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(7) The following subsection applies if, as a result of the application of a relevant deferral provision in the case of a disposal of a pre-change asset ("the original disposal"),—

(a) a gain or loss that would otherwise accrue to a company does not so accrue, or

(b) any part of any such gain is treated as forming part of a single chargeable gain which does not accrue to the company on the original disposal,

and a gain or loss does, wholly or partly in consequence of the application of that provision in the case of the original disposal, accrue to the company or any other company on a subsequent occasion.

(8) So much of the gain or loss accruing on the subsequent occasion as accrues in consequence of the application of the relevant deferral provision in the case of the original disposal is to be regarded for the purposes of sections 184A and 184B as accruing on a disposal of a pre-change asset (so far as it would not otherwise be so regarded).

(9) A "relevant deferral provision" means any of the following—

(a) section 139 (reconstruction involving transfer of business),

(b) section 140 (postponement of charge on transfer of assets to non-resident company),

(c) section 140A (transfer of a UK trade),

(d) section 140E (merger leaving assets within UK tax charge),

(e) sections 152 and 153 (replacement of business assets),

(f) section 187 (postponement of charge on deemed disposal under section 185).

(10) If—

(a) a pre-change asset of the relevant company is transferred to another company ("the transferee company"),

(b) any of sections 139, 140A and 140E apply to the companies in the case of the asset, and

(c) the transfer of the asset is made directly or indirectly in consequence of, or otherwise in connection with, the arrangements mentioned in section 184A or 184B,

the asset is to be regarded as a "pre-change asset" in the hands of the transferee company for the purposes of sections 184A and 184B.

(11) In such a case, subsection (1) applies as if the reference in paragraph (a) of that subsection to the relevant company were to the transferee company.

184F Sections 184A and 184B: "pre-change assets": pooling rules

(1) This section applies, in the case of any pre-change asset of the relevant company or any pre-change asset of any company which is acquired on a disposal to which section 171(1) applies, if—

(a) the pre-change asset consists of a holding of securities which falls as a result of any provision of Chapter 1 of Part 4 to be regarded as a single asset ("the pre-change pooled asset"), and

(b) as a result of any disposal or acquisition at any time after the relevant time, any securities ("the other securities") would (but for this section) be regarded as forming part of the pre-change pooled asset.

(2) None of the other securities are to be regarded for the purposes of this Act as forming part of the pre-change pooled asset.

(3) But this does not prevent the other securities from being regarded, as a result of any provision of that Chapter, as forming part of or constituting a different, single asset ("the other pooled asset").

(4) Securities of the same class as the other securities which are disposed of at or after the relevant time—

(a) are to be identified first with the other securities or securities forming part of the other pooled asset,

(b) are to be identified next with securities forming part of the pre-change pooled asset (if the number of securities disposed of exceeds the number identified in accordance with paragraph (a)), and

(c) subject to paragraphs (a) and (b), are to be identified in accordance with the provisions applicable apart from those paragraphs.

(5) The above identification rules apply even if some or all of the securities disposed of are otherwise identified—

(a) by the disposal, or

(b) by a transfer or delivery giving effect to it;

but where a company disposes of securities in one capacity, they are not to be identified with securities which it holds, or can dispose of, only in some other capacity.

(6) Chapter 1 of Part 4 has effect subject to this section.

(7) In this section—

"pre-change asset" means an asset which is pre-change asset for the purposes of section 184A or 184B,

"securities" does not include relevant securities as defined in section 108 but, subject to that, means—

(a) shares or securities of a company, and

(b) any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

(8) For the purposes of this section, shares or securities of a company are not to be treated as being of the same class unless—

(a) they are so treated by the practice of a recognised stock exchange, or

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(b) they would be so treated if dealt with on a recognised stock exchange.”.

(3) In Schedule 7A (restriction on set-off of pre-entry losses), in paragraph 1(1) (application of Schedule), at the end insert “, but this Schedule shall have no effect in any case where section 184A (restrictions on buying losses: tax avoidance schemes) has effect in relation to those losses”.

(4) Section 177B and Schedule 7AA (restrictions on setting losses against pre-entry gains) shall cease to have effect.

(5) In section 213 (insurance companies: spreading of gains and losses under section 212)—

(a) in subsection (8H) for “that the net amount is” to the end substitute “that the net amount would still arise even if losses accruing after the date on which the company or transferee joined the group of companies were disregarded”, and

(b) in subsection (8I) for “paragraph 1” to the end substitute “section 184C as if those references were contained in that section; and in subsection (8A)(b) above “group” has the same meaning as in that section”.

The amendments made by this subsection have effect where the accounting period for which the net amount represents an excess of losses over gains is an accounting period ending on or after 5th December 2005.

(6) The amendments made by this section, other than subsection (5), have effect for calculating the amount to be included in respect of chargeable gains in a company’s total profits for any accounting period ending on or after 5th December 2005.

(7) But, in respect of any such accounting period, those amendments do not have effect in relation to the deduction of any loss from chargeable gains that accrue on any disposal made before 5th December 2005 unless that loss accrues on a disposal made on or after that date.

(8) For the purposes of those amendments, it does not matter whether a qualifying change of ownership in relation to a company occurs—

(a) before 5th December 2005, or

(b) on or after that date.

(9) The following subsection applies so long as each of the following conditions is met—

(a) at any time (“the relevant time”) before 5th December 2005 there is a qualifying change of ownership in relation to a company (“the relevant company”) for the purposes of section 184A or 184B of TCGA 1992,

(b) the change of ownership occurs because the relevant company ceases to be a member of a group of companies at the relevant time (whether or not it also occurs for any other reason),

(c) the principal company of that group has control of the relevant company at the relevant time and at all subsequent times,

(d) the principal company of that group does not, at or after the relevant time, join another group otherwise than in the excepted case, and

(e) a qualifying loss for the purposes of section 184A of TCGA 1992, or a qualifying gain for the purposes of section 184B of that Act, accrues to the relevant company or any other company on a disposal made before 5th December 2005.

(10) Section 184A or 184B of TCGA 1992 applies in relation to that qualifying loss or gain as if, for the purposes of that section, a "pre-change asset" included an asset held before the relevant time by any company which, immediately before the relevant time, was a member of the same group of companies as the relevant company.

(11) Subsections (9) and (10) are to be read as if contained in section 184C of TCGA 1992.

71 Other avoidance involving losses accruing to companies

(1) After section 184F of TCGA 1992 (as inserted by section 70 above) insert—

"**184G Avoidance involving losses: schemes converting income to capital**

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if conditions A to D are satisfied.

(2) Condition A is that—

(a) any receipt arises to a company ("the relevant company") on a disposal of an asset, and

(b) the receipt arises directly or indirectly in consequence of, or otherwise in connection with, any arrangements.

(3) Condition B is that—

(a) a chargeable gain (the "relevant gain") accrues to the relevant company on the disposal, and

(b) losses accrue (or have accrued) to the relevant company on any other disposal of any asset (whether before or after or as part of the arrangements).

(4) Condition C is that, but for the arrangements, an amount would have fallen to be taken into account wholly or partly instead of the receipt in calculating the income chargeable to corporation tax—

(a) of the relevant company, or

(b) of a company which, at any qualifying time, is a member of the same group as the relevant company.

(5) Condition D is that—

(a) the main purpose of the arrangements, or

(b) one of the main purposes of the arrangements,

is to secure a tax advantage that involves the deduction of any of the losses from the relevant gain (whether or not it also involves anything else).

(6) If the Board consider, on reasonable grounds, that conditions A to D are or may be satisfied, they may give the relevant company a notice in respect of the arrangements (but see also section 184I).

(7) If, when the notice is given, conditions A to D are satisfied, no loss accruing to the relevant company at any time is to be deductible from the relevant gain.

(8) A notice under this section must—

(a) specify the arrangements,

(b) specify the accounting period in which the relevant gain accrues, and

(c) inform the relevant company of the effect of this section.

(9) If relevant gains accrue in more than one accounting period, a single notice under this section may specify all the accounting periods concerned.

(10) In this section—

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

“group”, in relation to companies, means a group determined in accordance with section 170,

“qualifying time”, in relation to any arrangements, means any time which falls in the period—

(a) beginning with the time at which the arrangements are made, and

(b) ending with the time at which the matters (other than any tax advantage) intended to be secured by the arrangements are secured,

“tax advantage” has the meaning given by section 184D.

184H Avoidance involving losses: schemes securing deductions

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if conditions A to D are satisfied.

(2) Condition A is that—

(a) a chargeable gain (the “relevant gain”) accrues to a company (“the relevant company”) directly or indirectly in consequence of, or otherwise in connection with, any arrangements, and

(b) losses accrue (or have accrued) to the relevant company on any disposal of any asset (whether before or after or as part of the arrangements).

(3) Condition B is that the relevant company, or a company connected with the relevant company, incurs any expenditure—

(a) which is allowable as a deduction in calculating its total profits chargeable to corporation tax but which is not allowable as a deduction in computing its gains under section 38, and

(b) which is incurred directly or indirectly in consequence of, or otherwise in connection with, the arrangements.

(4) Condition C is that the main purpose, or one of the main purposes, of the arrangements is to secure a tax advantage that involves both—

(a) the deduction of the expenditure in calculating total profits, and

(b) the deduction of any of the losses from the relevant gain,

whether or not it also involves anything else.

(5) Condition D is that the arrangements are not excluded arrangements.

For this purpose arrangements are excluded arrangements if—

(a) the arrangements are made in respect of land or any estate or interest in land,

(b) the arrangements fall within section 779(1) or (2) of the Taxes Act (sale and lease-back: limitation on tax reliefs),

(c) the person to whom the payment mentioned in that subsection is payable is not a company connected with the relevant company, and

(d) the arrangements are made between persons dealing at arm's length.

(6) If the Board consider, on reasonable grounds, that conditions A to D are or may be satisfied, they may give the company a notice in respect of the arrangements (but see also section 184I).

(7) If, when the notice is given, conditions A to D are satisfied, no loss accruing to the company at any time is to be deductible from the relevant gain.

(8) A notice under this section must—

(a) specify the arrangements,

(b) specify the accounting period in which the relevant gain accrues, and

(c) inform the relevant company of the effect of this section.

(9) If relevant gains accrue in more than one accounting period, a single notice under this section may specify all the accounting periods concerned.

(10) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"tax advantage" has the meaning given by section 184D.

(11) For the purposes of this section it does not matter whether the tax advantage is secured for the relevant company or for any other company.

184I Notices under sections 184G and 184H

(1) Subsection (2) applies if—

(a) the Board give a notice under section 184G or 184H (a "relevant notice") to a company that specifies an accounting period, and

(b) the notice is given before the company has made its company tax return for that accounting period.

(2) If the company makes its return for that period before the end of the applicable 90 day period (see subsection (12)), it may—

(a) make a return that disregards the notice, and

(b) at any time after making the return and before the end of the applicable 90 day period, amend the return for the purpose of complying with the provision referred to in the notice.

(3) If a company has made a company tax return for an accounting period, the Board may give the company a relevant notice in relation to that period only if a notice of enquiry has been given to the company in respect of its return for that period.

(4) After any enquiries into the return for that period have been completed, the Board may give the company a relevant notice only if requirements A and B are met.

(5) Requirement A is that at the time the enquiries into the return were completed, the Board could not have been reasonably expected, on the basis of information made available—

(a) to them before that time, or

(b) to an officer of theirs before that time,

to have been aware that the circumstances were such that a relevant notice could have been given to the company in relation to that period.

(6) For the purposes of requirement A, paragraph 44(2) and (3) of Schedule 18 to the Finance Act 1998 (information made available) applies as it applies for the purposes of paragraph 44(1).

(7) Requirement B is that—

(a) the company or any other person was requested to produce or provide information during an enquiry into the return for that period, and

(b) if the request had been duly complied with, the Board could reasonably have been expected to give the company a relevant notice in relation to that period.

(8) If—

(a) a company makes a company tax return for an accounting period, and

(b) the company is subsequently given a relevant notice that specifies that period,

it may amend the return for the purpose of complying with the provision referred to in the notice at any time before the end of the applicable 90 day period.

(9) If the relevant notice is given to the company after it has been given a notice of enquiry in respect of its return for the period, no closure notice may be given in relation to its company tax return until—

(a) the end of the applicable 90 day period, or

(b) the earlier amendment of its company tax return for the purpose of complying with the provision referred to in the notice.

(10) If the relevant notice is given to the company after any enquiries into the return for the period are completed, no discovery assessment may be made as regards the chargeable gain to which the notice relates until—

(a) the end of the applicable 90 day period, or

(b) the earlier amendment of the company tax return for the purpose of complying with the provision referred to in the notice.

(11) Subsections (2)(b) and (8) do not prevent a company tax return for a period becoming incorrect if—

(a) a relevant notice is given to the company in relation to that period,

(b) the return is not amended in accordance with subsection (2)(b) or (8) for the purpose of complying with the provision referred to in the notice, and

(c) the return ought to have been so amended.

(12) In this section—

"the applicable 90 day period", in relation to a relevant notice, means the period of 90 days beginning with the day on which the notice is given,

"closure notice" means a notice under paragraph 32 of Schedule 18 to the Finance Act 1998,

"company tax return" means the return required to be delivered pursuant to a notice under paragraph 3 of that Schedule, as read with paragraph 4 of that Schedule,

"discovery assessment" means an assessment under paragraph 41 of that Schedule,

"notice of enquiry" means a notice under paragraph 24 of that Schedule.".

(2) In Schedule 18 to FA 1998 (company tax returns, assessments, etc), in paragraph 25(1) (scope of enquiry), after "relief)" insert "or a notice under section 184G or 184H of the Taxation of Chargeable Gains Act 1992 (avoidance involving capital losses)".

(3) In paragraph 42 of that Schedule (restrictions on power to make discovery assessment etc), in sub-paragraph (2A), after "1988" insert "or section 184G or 184H of the Taxation of Chargeable Gains Act 1992".

(4) The amendments made by this section have effect in relation to chargeable gains accruing on any disposal that is made on or after 5th December 2005.

72 Repeal of s.106 of TCGA 1992

(1) Section 106 of TCGA 1992 (disposal of shares and securities by company within prescribed period of acquisition) shall cease to have effect.

(2) In consequence of that repeal—

(a) in section 104(2)(b) of TCGA 1992 (share pooling: general interpretative provisions) omit ", 106",

(b) in section 105 of that Act (disposal on or before day of acquisition of shares and other unidentified assets)—

(i) in subsection (2)(b) for "any of the provisions of section 106 or" substitute "section", and

(ii) in subsection (2)(c) omit "106,",

(c) in section 108(8) of that Act (identification of relevant securities) omit "shall have effect subject to section 106 but",

(d) in section 110(1)(b) of that Act (section 104 holdings: indexation allowance) for "sections 105 and 106" substitute "section 105", and

(e) in Schedule 15 to FA 2000 (corporate venture scheme), in paragraph 93(6) (identification of shares on a disposal), for "Sections 104 to 106" substitute "Sections 104, 105".

(3) The amendments made by this section have effect in relation to any disposal that is made on or after 5th December 2005.

Insurance policies and annuities

73 Policies of insurance and non-deferred annuities

(1) TCGA 1992 is amended as follows.

(2) For section 204 (policies of insurance) substitute—

“204 Policies of insurance and non-deferred annuities

(1) A gain accruing on a disposal of, or of an interest in, the rights conferred by a non-life policy of insurance is not a chargeable gain (but see subsection (2)).

(2) If a disposal is of, or of an interest in, the rights conferred by a non-life policy of insurance of the risk of—

(a) any kind of damage to assets, or

(b) the loss or depreciation of assets,

the exemption under subsection (1) does not apply so far as those rights relate to chargeable assets.

(3) For this purpose “chargeable assets” means assets on the disposal of which a chargeable gain—

(a) may accrue, or

(b) might have accrued.

(4) Nothing in subsections (1) and (2) prevents sums received under a non-life policy of insurance of the risk of—

(a) any kind of damage to assets, or

(b) the loss or depreciation of assets,

from being sums derived from the assets for the purposes of this Act (and, in particular, for the purposes of section 22).

(5) A gain accruing on a disposal of, or of an interest in, the rights conferred by a contract for an annuity is not a chargeable gain if the annuity is—

(a) a non-deferred annuity, or

(b) an annuity granted (or deemed to be granted) under the Government Annuities Act 1929.

(6) If any investments or other assets are, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder—

(a) the policy holder’s acquisition of the assets, and

(b) the disposal of the assets to the policy holder,

are to be taken for the purposes of this Act to be for a consideration equal to the market value of the assets.

(7) In this section “interest”, in relation to any rights, means an interest as a co-owner of the rights.

(8) It does not matter—

(a) whether the rights are owned jointly or in common, or

(b) whether or not the interests of the co-owners are equal.

(9) In this section a "non-deferred annuity" means an annuity—

(a) which is not granted under a contract for a deferred annuity, and

(b) which is granted in the ordinary course of a business of granting annuities on the life of any person,

and it does not matter whether the annuity includes instalments of capital.

(10) In this section a "non-life policy of insurance" means—

(a) a contract made in the course of a capital redemption business, as defined in section 458(3) of the Taxes Act, and

(b) any other policy of insurance which is not a policy of insurance on the life of any person.".

(3) In section 237 (superannuation funds, annuities and annual payments)—

(a) at the end of paragraph (a), insert "or", and

(b) omit paragraph (b) (exemption for disposals of non-deferred annuities etc).

(4) The amendments made by this section have effect in relation to disposals made on or after 5th December 2005.

Capital gains tax

74 Exception to "bed and breakfasting" rules etc

(1) TCGA 1992 is amended as follows.

(2) In section 106A (identification of securities: general rules for capital gains tax), after subsection (5) (acquisition of securities within 30 days after disposing of securities of same class) insert—

"(5A) Subsection (5) above shall not require securities to be identified with securities which the person making the disposal acquires at a time when—

(a) he is neither resident nor ordinarily resident in the United Kingdom, or

(b) he is resident or ordinarily resident in the United Kingdom but is Treaty non-resident.".

(3) In section 288 (interpretation), after subsection (7A) (meaning of "surrender" in application of Act to Scotland) insert—

"(7B) For the purposes of this Act, a person is Treaty non-resident at any time if, at that time, he falls to be regarded as resident in a territory outside the United Kingdom for the purposes of double taxation relief arrangements having effect at that time.".

(4) In consequence of the amendment made by subsection (3)—

(a) in section 10A (temporary non-residents), omit subsection (9A) (meaning of "Treaty non-resident"), and

(b) in section 83A (trustees both resident and non-resident in a year of assessment), omit subsection (5) (meaning of "Treaty non-resident").

(5) The amendment made by subsection (2) has effect in relation to any acquisition made at any time on or after 22nd March 2006.

(6) The amendments made by subsections (3) and (4) have effect in relation to any time on or after 22nd March 2006.