
STATUTORY INSTRUMENTS

1995 No. 3220

INCOME TAX

**The Sale and Repurchase of Securities
(Modification of Enactments) Regulations 1995**

Made - - - - 6th December 1995
Laid before the House of
Commons - - - - 11th December 1995
Coming into force - - 2nd January 1996

The Treasury, in exercise of the powers conferred on them by section 737E(1), (2) and (4) of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Sale and Repurchase of Securities (Modification of Enactments) Regulations 1995 and shall come into force on 2nd January 1996.

Interpretation

2.—(1) In these Regulations unless the context otherwise requires—

“original owner” shall be construed in accordance with subsection (1) of section 730A(2);

“the Taxes Act” means the Income and Corporation Taxes Act 1988;

“transferor” shall be construed in accordance with subsection (1) of section 727A(3), or subsection (1) of 737A(4) (as the case may be);

“the 1992 Act” means the Taxation of Chargeable Gains Act 1992(5).

(2) In these Regulations unless the context otherwise requires, any reference to a particular section, without more, is a reference to that section of the Taxes Act.

(1) 1988 c. 1; section 737E was inserted by section 83 (1) of the Finance Act 1995 (c. 4).

(2) Section 730A of the Income and Corporation Taxes Act 1988 was inserted by section 80 (1) of the Finance Act 1995.

(3) Section 727A was inserted by section 79 (1) of the Finance Act 1995.

(4) Section 737A was inserted by section 122 of the Finance Act 1994 (c. 9).

(5) 1992 c. 12.

Redemption of securities— modification of enactments

3. In relation to any case falling within subsection (2) (a) and (b) of section 737E (sale and redemption of securities), sections 727A, 730A and 737A shall have effect as if references (however expressed) to a person being required to buy back securities under an agreement included references to that person being entitled under the agreement to an amount equivalent to the proceeds of redemption of the securities concerned; and references in section 730A to “repurchase” and “repurchaser”, and in that section and in section 737A to “repurchase price”, shall be construed accordingly.

4. In relation to any case where section 730A has effect as modified by regulation 3, section 263A(1) of the 1992 Act⁽⁶⁾ shall have effect as if it provided in addition that—

- (a) the original owner shall be regarded for the purposes of capital gains tax as having disposed of the securities transferred by him to the interim holder pursuant to the arrangements—
 - (i) on the occasion of the redemption of the securities and not at the time of that transfer, and
 - (ii) for an amount equivalent to the proceeds of redemption; and
- (b) the interim holder shall be regarded for the purposes of capital gains tax as having acquired the securities transferred to him pursuant to the arrangements on that occasion and for that amount.

Substituted securities— modification of enactments

5.—(1) In the cases specified in paragraph (2) below, the provisions specified in paragraph (3) below shall have effect with the modifications applicable to that provision which are specified in paragraphs (4) to (7) below.

(2) The cases specified are cases involving any arrangement for the sale and repurchase of securities where the arrangement—

- (a) falls within subsection (1) (b) of section 737E, and
- (b) involves securities (“substituted securities”) being substituted for other securities.

(3) The provisions specified are—

- (a) sections 727A, 730A, 737A and 737C, and
- (b) section 263A of the 1992 Act.

(4) Sections 727A and 737A shall each have effect as if any reference to securities included a reference to substituted securities.

(5) Section 730A shall have effect—

- (a) as if any reference to securities included, subject to sub-paragraph (b) below, a reference to substituted securities; and
- (b) in cases where section 737A applies in relation to the repurchase price of the securities, or would apply if it were in force in relation to the securities, as if—
 - (i) subsection (9) of that section did not apply, but references to the repurchase price of the securities were references to the repurchase price of the securities that were bought back by the original owner under an agreement falling within subsection (1) of section 730A, increased by the aggregate amount specified in paragraph (6) (c) below; and
 - (ii) the securities transferred by the original owner under the agreement were the securities bought back by him.

(6) Section 263A was inserted by section 80 (4) of the Finance Act 1995.

(6) Section 737C shall have effect as if—

- (a) any reference to securities included, subject to sub-paragraph (b) below, a reference to substituted securities;
- (b) references to the repurchase price of the securities were references to the repurchase price of the securities that were bought back by the transferor; and
- (c) the section provided that that repurchase price should be treated as increased, in accordance with subsection (3) (b), (9) or (11) (c) (as the case may be) of section 737C, by the aggregate of the gross amounts of manufactured payments treated by section 737A (5) as having been made in respect of securities transferred in pursuance of the original sale and substituted securities.

(7) Section 263A of the 1992 Act shall have effect as if it provided that, in the circumstances specified in paragraph (8) below, any reference to securities included a reference to substituted securities.

(8) The circumstances specified are where, as part of the process of substitution, the securities substituted by the substituted securities are returned to the original owner.

*Derek Conway
Bowen Wells*

Two of the Lords Commissioners of Her
Majesty's Treasury

6th December 1995

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify provisions of the Income and Corporation Taxes Act 1988 and the Taxation of Chargeable Gains Act 1992 dealing with the tax treatment of transactions involving the sale and repurchase of securities. The modifications relate to cases where the securities are redeemed instead of being repurchased, and where other securities are substituted for those originally transferred.

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulations 3 and 4 modify provisions in connection with the redemption of securities, and regulation 5 modifies provisions in connection with substituted securities.