

Chapter 20

CHARGEABLE GAINS – COMPANIES – FURTHER ASPECTS

1 Part Disposals, Chattels, Non chattel wasting assets

- 1.1** When a company disposes of a part but not all of an asset, the allowable cost of the part of the asset disposed of is computed as we saw for individuals in Chapter 12 taking the cost of the entire asset and multiplying by Proceeds / Proceeds + Value Remaining
- 1.2** This same calculation will be performed for a company but in addition the allowable cost computed will then be available for indexation allowance in the normal way.

EXAMPLE 1

ST Ltd owned 10 hectares of land which originally cost £26,000 in March 2011. ST sold 2 hectares of the land in March 2019 for £16,000.

The remaining 8 hectares were valued at £34,000 in March 2019.

Calculate the chargeable gain on the disposal of the 2 hectares of land in March 2019.

Indexation factors are as follows:

March 2011 to March 2019	0.291
March 2011 to December 2017	0.269

- 1.3** A chattel disposal is also dealt with in the same way as for an individual (see Chapter 12) but again with the availability in a normal gains calculation of indexation allowance

EXAMPLE 2

JM Ltd sold the following assets in March 2019

- (a) an antique table which had cost £3,000 in February 2010 and sold for £5,000
- (b) a painting which had cost £2,000 in January 2011 and sold for £10,000
- (c) an antique vase which had cost £8,000 in August 2002 and sold for £3,000
- (d) a vintage car which had cost £7,000 in July 1999 and sold for £9,000

Indexation factors are as follows:

February 2010 to December 2017	0.288
January 2011 to December 2017	0.285
August 2002 to December 2017	0.645
July 1999 to December 2017	0.756

Calculate the net chargeable gains or losses arising for JM Ltd in March 2019

- 1.4** A non chattel wasting asset disposed of by a company will again be dealt with as for individuals (see Chapter 12) but again with indexation allowance available on the allowable cost.

EXAMPLE 3

On 1 March 2007 Z Ltd bought a copyright at a cost of £25,000. It had an estimated useful life of 30 years, and an estimated residual value of £1,000.

Z Ltd sold the asset for £38,000 on 1 March 2019.

Assume an indexation factor of 0.436 from March 2007 to December 2017.

Calculate the chargeable gain arising on the sale of the copyright in March 2019.

2 Assets damaged, lost or destroyed

2.1 Damaged assets

- (a) If an asset is damaged and compensation or insurance money is received as a result, then this will normally be treated as a part disposal of the asset. The cost is calculated using the normal part disposal formula:

$$\frac{A}{A + B}$$

where

A = value of part disposal

B = market value (MV) of the remainder at the time of part disposal

- (b) If insurance money is received then:
- (iii) if the insurance money is not used in restoring the asset a normal part disposal arises, with the MV of the part retained equating to the value of the asset in its damaged condition.
 - (iv) if the insurance money is fully used in restoring the asset the tax payer can elect to have the proceeds deducted from the cost of the asset for a future calculation thereby deferring any gain when the insurance is received.

EXAMPLE 4

MI Ltd bought a painting on 1 April 2000 for £10,000. The painting was damaged on 1 May 2018 when it was worth £50,000. After the damage it was only worth £25,000. On 1 July 2018 insurance proceeds of £30,000 were received but were not used to restore the painting. Assume an indexation factor from April 2000 to December 2017 of 0.549.

Calculate the chargeable gain arising on the receipt of the insurance proceeds

EXAMPLE 5

Daisy Ltd purchased a painting on 1 April 2000 for £10,000. The painting was damaged on 1 May 2018 when it was worth £50,000. After the damage it was worth £40,000.

On 1 July 2018 insurance proceeds of £8,000 were received. All of the insurance proceeds were used to restore the painting.

Assuming Daisy Ltd elects for the proceeds to be rolled over against the cost of the painting, calculate the base cost of the painting on a future disposal.

2.2 Destroyed or lost assets

- (a) If an asset is destroyed or lost and no compensation or insurance money is received there is a disposal which will result in a capital loss.
If there is any compensation or insurance monies received this will normally be brought into an ordinary gains computation as proceeds.
- (b) The date of disposal is the date the insurance money is received. If the insurance money is used to buy a replacement asset within 12 months, the gain can be deferred until the new asset is sold.
- (c) If only part of the insurance money is used to buy a replacement asset then some of the gain will be taxed immediately and some of the gain will be deferred.

EXAMPLE 6

SC Ltd bought an asset for £23,000 in June 2011. It was destroyed in October 2018. Insurance proceeds of £34,000 were received in March 2019. SC Ltd spent £30,000 on a replacement asset in June 2019

Calculate the chargeable gain and the base cost of the new asset.

Assume indexation factors are as follows:

June 2011 to December 2017	0.250
June 2011 to March 2019	0.231

Students may now attempt Practice Questions 26 & 27 and 31

Chapter 21

CHARGEABLE GAINS – COMPANIES – RELIEFS

1 Replacement of business assets (Rollover Relief)

1.1 Definition

A gain may be 'rolled over' (deferred) where it arises on the disposal of a qualifying business asset whose sale proceeds are reinvested in another qualifying business asset.

1.2 Qualifying assets

Both the old and new assets must fall into one of the following categories:

- (a) Land and buildings
- (b) Fixed plant and machinery

Both the old and new assets must be used in the business.

1.3 The relief

- (a) The gain is not taxed immediately but is postponed until the company makes a disposal of the replacement asset without further replacement.
- (b) The postponement is achieved by deducting the gain made on the old asset from the cost of the new one.
- (c) Where the disposal proceeds of the old asset are not fully reinvested, the surplus retained reduces the amount of capital gain that can be rolled over.
- (d) The replacement asset must be bought in the period 12 months before to 36 months after the disposal of the old asset.
- (e) A claim must be made within 4 years from the end of the accounting period in which the disposal occurred.

EXAMPLE 1

JM Ltd bought a building for use in the business in October 1994 for £150,000.
The building was sold in March 2019 for £400,000.
In June 2019 JM Ltd bought some land for use in the business for £500,000.
Assume an indexation factor of 0.929 from October 1994 to December 2017

Calculate the chargeable gain and the base cost of the new asset.

EXAMPLE 2

A Ltd bought land for use in the business in May 2003 for £200,000.
The land was sold in March 2019 for £350,000.
In September 2018 A Ltd bought a factory for use in the business for £335,000. Assume an indexation factor from May 2003 to December 2017 of 0.543

Calculate the chargeable gain and the base cost of the new asset.

2 Depreciating assets

2.1 Definition

- (a) An asset with an expected life of a maximum 60 years or
- (b) Fixed plant and machinery

Note: You will only be examined on fixed plant and machinery and leasehold property with a life of 60 years or less.

2.2 Effect

If the new asset is a depreciating asset.

- (a) The gain deferred is not deducted from the cost of the new asset
- (b) Instead it is postponed until the earliest of:
 - (i) disposal of the new asset
 - (ii) the date the new asset ceases to be used in the trade
 - (iii) 10 years after the new asset was acquired

EXAMPLE 3

YR Ltd bought land for use in the business in April 1997 for £200,000. The land was sold for £350,000 in May 2010. In March 2013 YR Ltd bought fixed plant for use in the business, costing £390,000. YR Ltd sold the plant in February 2019. (YR Ltd has a 31 March year end)

Calculate the chargeable gains as far as the above information allows for y/e 31 March 2011 and y/e 31 March 2019

Assume indexation factors as follows:

April 1997 to December 2017	0.812
April 1997 to May 2010	0.361
March 2013 to December 2017	0.171

- (c) When the replacement asset is a depreciating asset, the gain is deferred as in (b) above. However, if a non-depreciating asset is purchased before the deferred gain crystallises, the original gain may be rolled over against the cost of the new, non-depreciating asset and will only crystallise on sale of the non-depreciating asset..

You should now review the following technical articles written by the TX-UK examining team for exams from June 2019 to March 2020

Chargeable Gains parts 1 and 2

You may now attempt Practice Question 28

Chapter 22

CORPORATION TAX – GROUPS

1 Introduction

If companies are within a group then each such company must still prepare its own corporation tax computation. There is no taxation equivalent of consolidation as in financial reporting!

Group companies will benefit from certain reliefs but will also have certain additional rules and regulations placed upon them.

A group exists for taxation purposes where one company is a subsidiary of another. The various reliefs and rules are only applicable to members of certain group structures.

There are two types of group structure, based on the level of share ownership that are relevant for tax purposes, 51% groups and 75% groups

- (1) 51% groups issues
 - » related 51% group companies
 - » Group VAT registration (see Chapter 25)
 - » Availability of AIA
- (2) 75% groups issues
 - » group relief of losses
 - » gains group membership

2 Related 51% group companies

2.1 Definition

Companies are related 51% group companies if:

- (a) One company is a 51% subsidiary of the other or
- (b) They are 51% subsidiaries of another company

2.2 Control

A company is a related 51% group company if the parent company owns directly or indirectly more than 50% of the share capital of the subsidiary company at the end of the previous chargeable accounting period: Dormant companies are excluded but overseas companies are included.

2.3 The tax implications

- (a) As seen in Chapter 16 the profit limit of £1.5M used to determine if a company is large and is therefore required to make quarterly instalment payments is divided between the number of related 51% group companies.

EXAMPLE 1

A Ltd owns 100% of the share capital of V Ltd, F Ltd and C Ltd and has a Taxable Total Profit of £400,000.

Is A Ltd a large company for purposes of making quarterly instalment payments?

3 The Annual Investment (AIA)

Only one AIA is available to a group of companies but the group members can allocate the AIA in any way it chooses across the group if the qualifying AIA expenditure is more than the AIA limit of £200,000. A group therefore may choose to allocate the available AIA to firstly reduce the profits of large companies below the relevant profit limit of the group company and as always to special rate pool expenditure before main pool expenditure

4 Group relief

4.1 Introduction

The relief allows companies in a 75% group to transfer any part of a current year trading loss of one such group company to set off against any part of another company's taxable total profit (TTP) of a corresponding accounting period.

Group relief is also available in respect of:

- excess qualifying charitable donations and
- excess property business losses

Such losses are only excess if they exceed the total profits of the company concerned before any other losses have been applied.

As stated in Chapter 18 any unused trading losses or property business losses brought forward by a company may now also be surrendered as group relief BUT only to the extent that the loss making company is unable to set off the loss against its own total profits.

4.2 Definition of a 75% group

- (a) One company is the 75% subsidiary of another, or
 - (b) Both companies are 75% subsidiaries of a third company.
- The holding company must :
- (c) own at least 75% of share capital, and
 - (d) be entitled to at least 75% of the subsidiary's assets on winding up, and
 - (e) be entitled to at least 75% of the subsidiary's profits on a distribution.

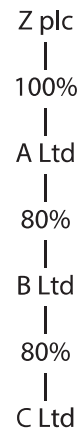
4.3 Sub-subsidiaries

The holding company must have an EFFECTIVE interest in any sub-subsidiary of at least 75% for them to be in the same group for group relief purposes, for example if a parent company owns 90% of the shares in a subsidiary which in turn owns 90% of its subsidiary then all 3 companies would be able to group relieve with one another as the parent company has an effective 81% interest ($90\% \times 90\%$) in the sub-subsidiary.

If the subsidiary owned only 80% of the shares in the sub-subsidiary, then the parent company may only group relieve with its direct subsidiary as its effective holding in the sub-subsidiary is only 72% ($90\% \times 80\%$). The sub-subsidiary may only group relieve with the subsidiary company, but the subsidiary company is able to group relieve with either its parent company or its own subsidiary.

EXAMPLE 2

Z plc is the holding company for a group of companies. The group structure is as follows:



For the year ended 31 March 2019 Z plc has a trading loss.

State the companies to which Z plc may surrender its trading loss in y/e 31/3/19.

4.4 Group loss relief

- (a) Trading losses may be surrendered to other companies in the group, which may then relieve the losses against their own taxable total profits.
- (b) Any member company may surrender its loss to any other member of the group:
 - » a holding company may surrender a loss to its subsidiary company
 - » a subsidiary company may surrender a loss to its holding company
 - » a subsidiary company may surrender a loss to a fellow subsidiary company.
- (c) The surrendering company is the company that surrenders its loss.
- (d) The claimant company is the company to which the loss is surrendered.

4.5 The surrendering company

- (a) The surrendering company may surrender as much of its trading loss as it wants to
- (b) It is not necessary to relieve a trading loss against its own income and gains first.
- (c) The losses which may be surrendered are:
 - » any amount of a current period trade loss
 - » unrelieved qualifying charitable donations of period
 - » unrelieved property business losses of period
 - » unrelieved trading and property business losses brought forward can be surrendered as group relief but only to the extent that they cannot be set off against the surrendering company's own total profits.

Note that capital losses are not eligible for group relief but are dealt with separately under gains group membership.

4.6 The claimant company

The relief is taken against the TTP of the same period as the surrendering company's loss making period.

4.7 Group relief

- (a) The important points to remember as regards group relief are:
 - » Losses can be group relieved against 100% of a 75% subsidiary's TTP, or conversely 100% of a 75% subsidiary's loss can be group relieved.
 - » The relief is not restricted to the percentage shareholding.
 - » Any amount of current year trade and business property losses can be group relieved.
 - » Amounts of brought forward unused trading and business property losses that cannot be set off in surrendering company may also be group relieved
- (b) Where the accounting periods of two group companies are different, then group relief will be restricted to the corresponding or coterminous period. It is therefore necessary to time apportion both the loss making period and the profit making periods to calculate how much loss may be set against how much profit in each CAP
- (c) In TX-UK only UK resident companies are eligible for group relief though two UK resident subsidiaries of an overseas resident parent company would be able to group relieve with one another though neither could group relieve with its overseas parent company

EXAMPLE 3

Continuing with Example 2 suppose that B Ltd had commenced trading on 1 October 2018 preparing accounts for the six-month period to 31 March 2019

Discuss the group relief available in respect of Z plc trading loss for y/e 31 March 2019 if it were to consider surrendering the trading loss to B Ltd.

EXAMPLE 4

Beyonce Ltd prepares its accounts to 31 March in each year and has two wholly owned subsidiaries J Ltd and Z Ltd. J Ltd has been owned for several years but prepares its accounts to 30 June, while Z Ltd started trading on 1 January 2019 and made a trading profit of £50,000 in its 3 month period to 31 March 2019. Beyonce made a trading loss of £240,000 in its year ended 31 March 2019 while J Ltd has Taxable Total Profits of £160,000 for the year ended 30 June 2018 and £280,000 for the year ended 30 June 2019.

Compute the maximum group relief claims available to J Ltd and Z Ltd in respect of Beyonce's loss of £240,000.

4.8 Payment for group relief

The claimant company may make payments to the surrendering company for group relief. Any payment up to the amount of the loss surrendered is ignored for corporation tax purposes.

5 Groups – Chargeable gains**5.1 Definition of a 75 % group**

- (a) A group consists of a parent company and its 75% subsidiaries, and also the 75% subsidiaries of their subsidiaries.
- (b) The parent company need only have an effective interest of over 50% in any sub-subsidiary companies.
- (c) Groups may be established through a parent company resident anywhere in the world.

5.2 The Tax Implications

- (a) Group companies will transfer assets between themselves without incurring a chargeable gain or allowable loss. This will be a no gain / no loss transfer and will be deemed to take place at a value equal to the cost of the asset to the transferor company plus the available indexation allowance - remember that indexation allowance runs only to December 2017 at latest.
- (b) Group companies can make an election such that any part of a capital gain or loss incurred by one company may be treated as arising in another company.
- (c) Members of a 75% group are treated as one for the purposes of roll over relief.

Where:

- » one company sells a qualifying asset, and
- » another company buys a qualifying asset within the rollover relief qualifying time period.
- » the gain can be rolled over

5.3 Advantages of Gains Group membership

- (a) The group's capital losses can be better utilised
- (b) Rollover relief is available on a group wide basis
- (c) Gains may be moved to a company with insufficient profits to cover its qualifying charitable donations or out of a company where its profits exceed the profit limits for purposes of making quarterly instalment payments.

5.4 Capital losses

- (a) An asset does not have to be moved between group companies in order to match capital losses and gains.
- (b) Companies in a capital gains group can make an election to deem any part of a current period gain or loss made by one group member to have been made by any other gains group member.
- (c) The election has to be made within two years of the end of the accounting period in which the asset is disposed of outside the group.
- (d) The advantages of the election
 - » The two-year time limit for making an election means that tax planning regarding the set-off of capital losses and gains can be done retrospectively.
 - » By not having to actually transfer assets within a group means a saving in legal and administrative costs
 - » The election can be made in respect of any part of a capital gain or capital loss.

EXAMPLE 5

During the year ended 31 March 2019 Large Ltd disposed of an asset that resulted in a capital loss of £35,000. Smaller Ltd, the 100% subsidiary of Large Ltd, disposed of an asset that resulted in a capital gain of £100,000. Large Ltd has Taxable Total Profits of £1M and Smaller Ltd has Taxable Total Profits of £800,000 including the chargeable gain and anticipates larger profits in the next accounting period. Large Ltd holds no other shareholdings.

Discuss the elections available to the group companies and how they may best be used.

You should now review the following technical article written by the TX-UK examining team for exams from June 2019 to March 2020

Groups

Chapter 23

SELF ASSESSMENT AND PAYMENT OF TAX FOR COMPANIES

1 Corporation tax – payment dates

1.1 Notification of chargeability

A company falling within the scope of corporation tax for the first time must notify HMRC when its first accounting period begins, within 3 months of the start of the accounting period. Failure to notify chargeability to tax within 12 months of the end of the accounting period will lead to a standard penalty based on a percentage of the tax unpaid 12 months after the end of the accounting period. The standard penalty is discussed in chapter 25, (VAT Section 8.1).

1.2 Payment of tax

- (a) Companies pay tax by self assessment
- (b) Estimated tax is payable 9 months and one day after the end of each accounting period (due date), with provisions for quarterly instalment payments for 'large' companies. Payment must be made electronically
- (c) Interest due to the HMRC on tax paid late will run from the due date to the date of payment at a rate of 3% per annum.
- (d) Interest on overpayments of tax will run from the later of the due date or the date tax was actually paid at a rate of 0.5% per annum.
- (e) Under self assessment interest on tax paid late will be deductible against interest receivable. Interest received on overpaid corporation tax will be taxable as Interest receivable

1.3 Quarterly Instalments

- (a) Quarterly instalments apply to large companies.
- (b) A large company is one with a profit exceeding £1.5M based on a single company with no related 51% group companies and which prepares accounts for a 12 month period. The profit limit must be divided by the number of related 51% group companies and time apportioned for a chargeable accounting period of less than 12 months.
- (c) The instalments are based on the estimated current year's liability.
- (d) The four quarterly instalments will be made in months 7, 10, 13 and 16 following the start of the accounting period. The instalments are due on the 14th of the month. Thus for the accounting year ended 31 March 2019 the first quarterly instalment payment would be due October 14, 2018 followed by further payments due January 14, April 14 and July 14, 2019
- (e) Quarterly payments are not required if
 - » current augmented profits do not exceed £10 million
 - and
 - » the company was not large in previous CAP.

EXAMPLE 1

Photo plc has Taxable Total Profits for the year ended 31 December 2018 of £2M, its lowest profit figure for several years.

Show how the liability for the year ended 31 December 2018 will be settled.

2 Corporation tax return

- (a) Companies that do not receive a tax return are required to notify HMRC if they have income or chargeable gains on which tax is due. This must be done within 12 months from the end of the accounting period in which the liability arises, otherwise the standard penalty for late notification will arise (as above 1.1).
- (b) Complete accounts and computations are due 12 months after the end of the financial accounting period (this is called the filing date). If the accounts and computations are filed late there is a fixed penalty of £100. If the return is filed more than 3 months after the filing date the fixed penalty is increased to £200 (These penalties become £500 and £1,000 if it is the third consecutive time the return is late).

Returns must now be made online and any corporation tax paid electronically.

The HMRC software if used will now compute the amount of corporation tax payable.

The tax computation and accounts must be submitted online using inline eXtensible Business Reporting Language (iXBRL). This is the global standard for reporting business information in electronic format using tags that can be read by a computer.

Small companies with straightforward accounts and tax computations may use the HMRC software but other companies must use:

- » commercial software that automatically inserts tags
 - » a tagging service
 - » conversion software that allows tags to be added to accounts and computations
- (c) Returns may be subject to a random or specific enquiry by the HMRC. Written notice of the HMRC's intention to make an enquiry is given within 12 months from the date the return is received by HMRC.
 - (d) There will be an additional corporation tax related penalty of 10% of the tax unpaid 6 months after the return is due, if the self-assessment tax return is more than six months late, or 20% of the tax unpaid 6 months after the return is due, if more than 12 months late.
 - (e) HMRC may amend a return to correct obvious error within nine months of the day the return is filed. A company may amend a return within 12 months of the filing date.

3 Claims

- (a) Wherever possible claims must be made on a tax return or on an amendment to it and must be quantified at the time the return is made.
- (b) If a company believes it has made an error in a return, an error or mistake claim may be made within four years from the end of the accounting period.
- (c) Other claims must be made within four years of the end of the accounting period unless a different time limit specified.

4 Records

- (a) Companies must keep records until the latest of
 - » six years from the end of the accounting period
 - » the date any enquiries are completed
 - » the date after which enquiries may not be commenced
- (b) All businesses records and accounts including contracts and receipts must be kept

- (c) Failure to keep records can lead to a penalty or up to £3,000 for each accounting period affected

5 Compliance Checks

- (a) HMRC may enquire into a corporation tax return provided that they first give written notice that they are going to enquire.
- (b) The notice must be given within a year after the later of:
- » 12 months following the date the return is actually received by HMRC
 - » If the return is late, 12 months following the 31/1, 30/4, 31/7, 31/10 that next follows the actual date of delivery
- (c) An enquiry may be made due to:
- » A suspicion income is understated
 - » Deductions being incorrectly claimed
 - » Other information in HMRC's possession
 - » Being part of a random review process

6 Determinations and Discovery assessments

- (a) If a return is not delivered by the filing date, HMRC may issue a determination of the tax payable within 3 years of the filing date.
- (b) If HMRC believe that not enough tax has been assessed for an accounting period they can make a discovery assessment to collect the tax.
- (c) A discovery assessment can only be made if:
HMRC could not reasonably be expected to have been aware of a loss of tax and are supplied with information to draw their attention to a contentious matter such as the use of a valuation or estimate. HMRC can raise an assessment within 4 years from the end of the accounting period; this is extended to 6 years if there is a careless error or 20 years if there is a deliberate error or failure to notify a chargeability to tax.

7 Appeals and Disputes

- (a) The company can appeal against amendments to the corporation tax return.
- (b) The appeal must be normally be made within 30 days of the amendment and must state the grounds for appeal.
- (c) The appeals procedure is as per VAT - see chapter 25.

8 Penalties for incorrect returns

The amount of penalty is based on the amount of tax understated, but the actual penalty payable is linked to the taxpayer's behaviour, as follows:

- (a) there will be no penalty where a taxpayer simply makes a genuine mistake.
- (b) there will be a moderate penalty (up to 30% of the understated tax) where a tax payer fails to take reasonable care.
- (c) there will be a higher penalty (up to 70% of the understated tax) if error is deliberate.
- (d) there will be an even higher penalty (up to 100% of the understated tax) where the error is deliberate and there is also concealment of the error.

A penalty will be substantially reduced where the taxpayer makes disclosure, especially unprompted disclosure to HMRC.

9 Information and Inspection powers

These are as per VAT - see chapter 25.

You may now attempt Practice Question 45

