

Shares and Securities / Introductory

Part 19-04-01

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- 1.1** Certain terms in the Capital Gains Tax legislation have particular meanings in particular contexts. The following definitions accordingly set out the meanings to be assigned to such terms as shares, securities, etc., for the purpose of these instructions.
- 1.2** The capital of a company is divided into units of a convenient size, each such unit constituting a "share". A company may have two or more different kinds of shares (e.g., ordinary, preference, second preference, deferred, founder), each with different rights as regards conditions of issue, voting power and entitlement to dividends or capital distributions on liquidation. Each share may or may not carry a registered number; the large majority do not.
- 1.3** The definition in **Section 5** provides that "shares" includes stock. A stock unit (or simply "stock") is essentially similar to a share but it is measured by the nominal amount of the issued capital which it represents. A copy may, subject to certain formalities under the Companies Acts permit the conversion of un-numbered shares into stock units, but this is a change in form only.
- 1.4** The term "debentures" (e.g. in **Sections 584(7), 586 or 587**) is not defined for Capital Gains Tax purposes. Its ordinary meaning must, therefore, be implied and its definition for the purposes of the Companies Acts is relevant. **Section 2, Companies Act, 1963**, defines "debenture" as follows:-

"debenture" includes debenture stock, bonds and any other securities of a company whether constituting a charge on the assets of the company or not.

Under **Section 585(1)** "security" includes any loan stock or similar security whether of the State or of any other government, or of any public or local authority or of any company, and whether secured or unsecured. It therefore includes debentures of companies.

- 1.5** For Capital Gains Tax purposes, the shares of companies are of two kinds:-
- (a) Shares (known as "quoted" shares) of a company whose name is included in a Stock Exchange's Official List of companies being shares or securities which the members of the Stock Exchange are permitted to deal in.
 - (b) Other shares (known as "unquoted" shares).

A company may have more than one class of share in issue, one or more being quoted and the others unquoted.

As regards unquoted shares held at 6 April, 1974, which subsequently became quoted shares see [Tax Instruction 19.4.4 Par. 1](#).

1.6 Shares should be treated as being of the same "class" only if

- (a) they are so treated by the practice of a Stock Exchange in the State or elsewhere; or
- (b) in the case of "unquoted" shares they would be so treated if they were dealt with on such a Stock Exchange.

They should be so treated, notwithstanding that the individual shares are identifiable (e.g., by numbers).

Some shares of a particular description may be issued in registered form and others in bearer form. These two forms of share are not of the same class. As the stamp duty provisions apply differently to the two forms, one form of share cannot be delivered in satisfaction of a bargain in the other form. Similarly, shares which are partly paid are not of the same class as those which are fully paid (see, however, **Tax Instruction 19.4.7 Par. 8**).

- 1.7** A bonus (or scrip or capitalisation) issue is one in which reserves of a company are capitalised and each shareholder of a particular class (or classes) is given without making any payment, shares or securities of the same company in proportion to his holding of the qualifying shares (e.g., one debenture for every three ordinary shares held).
- 1.8** A rights issue is one in which a shareholder is given the right to subscribe, usually at a preferential price, for a new issue of shares or securities by the company in proportion to his holding of the qualifying shares.
- 1.9** Shares are usually allotted by means of provisional letters of allotment and, although they may already have been paid for in full, they remain in this form until the formalities of registration have been completed. They may be disposed of in this form but, because there is no stamp duty payable on such a disposal, their market value is different from the market value of any similar shares which have already been registered. They are therefore not of the same "class" as the similar shares already registered (see, however, [Tax Instruction 19.4.7 Par. 8](#)).
- 1.10** Capital Gains Tax is chargeable only on capital gains accruing on or after 6 April, 1974. The rules for the determination of the market value of "quoted" shares and securities at that date, based on the figures in the Stock Exchange Official lists, are set out in **Section 548(3)**. These rules are summarised in [Tax Instruction 19.4.2 Par. 2](#). The chargeable gain or allowable loss by reference to this market value must not, however, exceed the gain or loss by reference to the actual (or deemed) acquisition price; and where on one basis there is a gain but on the other a loss, the disposal is treated as resulting in neither gain nor loss.

- 1.11** Particular rules govern reorganisations of share capital of companies, the most common forms of which are bonus and rights issues.

The special treatment of these and other reorganisation operations, including their effect on the values attributable to stocks and shares held at 6 April, 1974, is set out in [Tax Instruction 19.4.6 Par. 1](#) et seq.

- 1.12** There are special rules for dealing with the transfer of a business to a company in exchange wholly or partly for shares issued by the company to the person transferring the business (see [Tax Instruction 19.6.4 Par. 1](#) et seq.).

- 1.13** For the purpose of valuing "unquoted" shares (e.g., at 6 April, 1974, or on the occasion of a gift or on termination of a life interest in a settlement), the ordinary rule of "market value" applies, the value being computed on general principles. (See [Tax Instruction 19.2.8 Par. 1](#) et seq.)

- 1.14** A person may grant to another person an option to buy or sell any asset which he is competent to dispose of or to acquire. A common form of option is the Stock Exchange option to buy or to sell stocks or shares. See [Tax Instruction 19.1.11 Par. 1](#) et seq. regarding the treatment of options for Capital Gains Tax purposes.