

Part 20-01-13

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Recovery of tax from other members of a group (S.626)

13.1 **Section 626** gives Revenue the right to recover unpaid tax on the disposal of an asset which has passed from one member of a group to another. The recovery can be made either from the principal company or from certain other specified members of the group. In the absence of this provision an asset which is increasing in value could be passed from one member of the group to another and finally disposed of outside the group by a member which acquired the asset shortly before disposal with the help of secured loans and thus might not have the money to pay the tax on the accumulated gain.

Therefore, if any Corporation Tax assessed on a company for an accounting period in which a capital gain accrues is not paid within six months from the date when it becomes payable, any tax on capital gains included in the unpaid tax may, within two years of the date on which the tax became payable, be assessed and charged (in the name of the company to which the chargeable gain accrued) at a rate not exceeding the rate in force when the gain accrued.

The assessment may be made on -

- (a) the company which was at the time when the gain accrued the principal company of the group, and
- (b) any other company which, in any part of the period of two years ending when the gain accrued was a member of that group and owned the asset disposed of or any part of it at any time while it was such a member, or, where that asset is an interest or right in or over another asset, owned either asset or any part of either asset.

A company within (b) may be assessed whether or not it owned the asset within the period of two years ending with the date on which the gain accrued.

- 13.2** A company assessed under the powers described in **Par. 1** is entitled to recover, in whole, or in part, the tax that it has paid from certain other companies in the group, as specified in **Section 626(2)**.
- 13.3** See **Section 649** for the provisions relating to companies chargeable to capital gains tax on chargeable gains.