



# Finance Act 1981

## 1981 CHAPTER 35

### PART IV

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER V

#### CAPITAL GAINS

#### **79 Emigration of donee**

(1) If—

- (a) relief under section 79 of the Finance Act 1980 is given in respect of a disposal made after 5th April 1981 (" the relevant disposal "), and
- (b) at a time when he has not disposed of the asset in question, the transferee becomes neither resident nor ordinarily resident in the United Kingdom,

then, subject to the following provisions of this section, a chargeable gain shall be deemed to have accrued to the transferee immediately before that time, and its amount shall be equal to the held-over gain (within the meaning of the said section 79) on the relevant disposal.

(2) For the purposes of subsection (1) above the transferee shall be taken to have disposed of an asset before the time there referred to only if he has made a disposal or disposals in connection with which the whole of the held-over gain on the relevant disposal was represented by reductions made in accordance with subsection (1)(b) of the said section 79 ; and where he has made a disposal in connection with which part of that gain was so represented, the amount of the chargeable gain deemed by virtue of this section to accrue to him shall be correspondingly reduced.

(3) The disposals by the transferee that are to be taken into account under subsection (2) above shall not include any disposal to which section 44 of the Capital Gains Tax Act 1979 (disposals between spouses) applies; but where any such disposal is made by the

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*Status: This is the original version (as it was originally enacted).*

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transferee, disposals by his spouse shall be taken into account under subsection (2) above as if they had been made by him.

- (4) Where the relevant disposal was made to an individual, subsection (1) above shall not apply by reason of his becoming neither resident nor ordinarily resident more than six years after the end of the year of assessment in which the relevant disposal was made.
- (5) Subsection (1) above shall not apply where the relevant disposal was made to an individual and—
- (a) the reason for his becoming neither resident nor ordinarily resident in the United Kingdom is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and
  - (b) he again becomes resident or ordinarily resident in the United Kingdom within the period of three years from the time when he ceases to be so, without having meanwhile disposed of the asset in question;

and accordingly no assessment shall be made by virtue of subsection (1) above before the end of the said period of three years in any case where the condition in paragraph (a) above is, and the condition of paragraph (b) above may be, satisfied.

- (6) For the purposes of subsection (5) above a person shall be taken to have disposed of an asset if he has made a disposal in connection with which the whole or part of the held-over gain on the relevant disposal would, had he been resident in the United Kingdom, have been represented by a reduction made in accordance with section 79(1)(b) of the Finance Act 1980; and subsection (3) above shall have effect for the purposes of this subsection as it has effect for the purposes of subsection (2) above.
- (7) Where an amount of tax assessed on a transferee by virtue of subsection (1) above is not paid within the period of twelve months beginning with the date when the tax becomes payable then, subject to subsection (8) below, the transferor may be assessed and charged (in the name of the transferee) to all or any part of that tax.
- (8) No assessment shall be made under subsection (7) above more than six years after the end of the year of assessment in which the relevant disposal was made.
- (9) Where the transferor pays an amount of tax in pursuance of subsection (7) above, he shall be entitled to recover a corresponding sum from the transferee.
- (10) Gains on disposals made after a chargeable gain has under this section been deemed to accrue by reference to a held-over gain shall be computed without any reduction under section 79(1) of the Finance Act 1980 in respect of that held-over gain.