



Finance Act 1986

1986 CHAPTER 41

PART II U.K.

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER III U.K.

CAPITAL GAINS

58 Gifts into dual resident trusts. U.K.

- (1) This section applies where there is or has been a disposal of an asset to the trustees of a settlement in such circumstances that, on a claim for relief, section [F1126 or 147A of the Capital Gains Tax Act 1979 (relief] for gifts) applies, or would but for this section apply, so as to reduce the amounts of the chargeable gain and the consideration referred to in [F1subsection (3)] of that section.
- (2) In this section—
 - (a) “a relevant disposal” means such disposal as is referred to in subsection (1) above; and
 - (b) “the 1980 provision” means section 79 of the Finance Act 1980 ^{F2}.
- (3) Relief under [F1section 126 or 147A of the Capital Gains Tax Act 1979] shall not be available on a relevant disposal occurring on or after 18th March 1986 if—
 - (a) at the material time the trustees to whom the disposal is made fall to be treated, under section 52 of the Capital Gains Tax Act, as resident and ordinarily resident in the United Kingdom, although the general administration of the trust is ordinarily carried on outside the United Kingdom; and
 - (b) on a notional disposal of the asset concerned occurring on immediately after the material time, the trustees would be regarded for the purposes of any double taxation relief arrangements—
 - (i) as resident in a territory outside the United Kingdom to tax on a gain arising on that disposal.

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1986, Chapter III. (See end of Document for details)

- (4) In subsection (3) above—
- (a) “the material time” means the time of the relevant disposal;
 - (b) a “notional disposal” means a disposal by the trustees of the asset which was the subject of the relevant disposal; and
 - (c) “double taxation relief arrangements” means arrangements having effect by virtue of section [F3788 or 789 of the Taxes Act 1988] (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979).
- (5) In any case where—
- (a) relief under [F4section 126 or 147A of the Capital Gains Tax Act 1979] has been allowed on a claim relating to a relevant disposal, (whether occurring before, on or after 18th March 1986), and
 - (b) at a time subsequent to that relevant disposal, but not earlier than 18th March 1986, the circumstances become such that paragraphs (a) and (b) of subsection (3) above would apply if that time were the material time referred to in that subsection, and
 - (c) section 79 of the Finance Act 1981 (which provides for the recovery of relief under [F4section 126 or 147A of the Capital Gains Tax Act 1979] in the event of the emigration of the donee) has not had effect in relation to the relevant disposal before that time and would not (apart from this subsection) have effect at that time,

section 79 of the Finance Act 1981 shall have effect as if, at that time, the trustees had become neither resident nor ordinarily resident in the United Kingdom.

Textual Amendments

- F1** Finance Act 1989 (c. 26, SIF 63:1, 2), s. 124, **Sch. 14 para. 6(5)(a)(b)** in relation to disposals on or after 14 March 1989 (except where relief given under 1980 s. 79 in respect of a disposal before that date). Previously “section 79 of the Finance Act 1980 (general relief”, “subsectioun (1)” and “the 1980 provision” respectively.
- F2** Repealed by ss. 124 and 187 and Schs. 14 para. 6(5)(b), 17 Part VII in relation to disposals on or after 14 March 1989 (except where relief given under 1980 s. 79 in respect of a disposal before that date).
- F3** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29 para. 32**.
- F4** Finance Act 1989 (c. 26, SIF 63:1, 2), s. 124 , **Sch. 14 para. 6(5)(c)** in relation to disposals on or after 14 March 1989 (except where relief given under 1980 s. 79 in respect of a disposal before that date). Previously “the 1980 provision”.

59 Disposals of options and contracts for gilt-edged securities etc. **U.K.**

With respect to the disposals occurring on or after 2nd July 1986, for section 67 of the Capital Gains Tax Act 1979 there shall be substituted the following section—

“67 Exemptions of options for gilt-edged securities and qualifying corporate bonds etc.

- (1) A gain which accrues on the disposal by any person of—
- (a) gilt-edged securities or qualifying corporate bonds, or

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(b) any option or contract to acquire or dispose of gilt-edged securities or qualifying corporate bonds,
shall not be a chargeable gain.

(2) In subsection (1) above the reference to the disposal of a contract to acquire or dispose of gilt-edged securities or qualifying corporate bonds is a reference to the disposal of the outstanding obligations under a contract.

(3) Without prejudice to section 72(3) of the Finance Act 1985 (closing out of certain futures contracts dealt in on a recognised futures exchange), where a person who has entered into any such contract as is referred to in subsection (1) (b) above closes out that contract by entering into another contract with obligations which are reciprocal to those of the first-mentioned contract, that transaction shall for the purposes of this section constitute the disposal of an asset, namely, his outstanding obligations under the first-mentioned contract.”

60 **Small part disposals.** **U.K.**

(1) In section 107 of the Capital Gains Tax Act 1979 (small part disposals) in subsection (1) for the words “is small, as compared with” there shall be substituted “does not exceed one-fifth of”.

(2) This section applies to disposals on or after 6th April 1986.

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Changes to legislation:

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