



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### [<sup>F1</sup>PART 1

#### CAPITAL GAINS TAX AND CORPORATION TAX ON CHARGEABLE GAINS

#### CHAPTER 3

#### ATTRIBUTION OF GAINS OF NON-UK RESIDENT CLOSE COMPANIES

#### *[<sup>F1</sup>Non-UK domiciled individuals and temporary non-residents*

#### Textual Amendments

- F1** Pt. 1 substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by Finance Act 2019 (c. 1), [Sch. 1 para. 2](#)

#### **3D Non-UK domiciled individuals**

- (1) This section applies if, as a result of section 3, an amount in respect of a gain accruing to a company in a tax year is apportioned to an individual who is not domiciled in the United Kingdom in that year.
- (2) The apportioned amount is regarded for the purposes of paragraph 1 of Schedule 1 as accruing on a disposal of a foreign asset if the asset disposed of by the company is a foreign asset (but not otherwise).
- (3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis)—
  - (a) treat any consideration obtained by the company on the disposal of the asset as deriving from the apportioned amount, and
  - (b) if that consideration is less than the market value of the asset, treat the asset as deriving from the apportioned amount.

*Status: Point in time view as at 12/02/2019.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Non-UK domiciled individuals and temporary non-residents is up to date with all changes known to be in force on or before 17 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) The apportioned amount may not be reduced or extinguished by a loss under section 3 if—
- (a) the apportioned amount is regarded for the purposes of paragraph 1 of Schedule 1 as accruing on a disposal of a foreign asset,
  - (b) the remittance basis applies to the individual for the tax year in question, and
  - (c) any of the apportioned amount is remitted to the United Kingdom in a subsequent tax year.
- (5) Paragraph 5 of Schedule 1 applies for the purposes of this section as it applies for the purposes of that Schedule.

### **3E Temporary non-residents**

- (1) This section applies if—
- (a) an individual is temporarily non-resident, and
  - (b) a gain or loss accrues to a company in a tax year falling wholly or partly in the temporary period of non-residence.
- (2) So much of the gain as would, as a result of section 3, have been treated as accruing to the individual in the tax year if the residence assumption were made is to be treated as accruing to the individual in the period of return.
- (3) But if—
- (a) the remittance basis applies to the individual for the tax year that comprises or includes the period of return, and
  - (b) any part of the gain has not been remitted to the United Kingdom before the period of the return,
- subsection (2) has effect subject to the further application of Schedule 1 (as read with section 3D) in relation to that part of the gain.
- (4) Paragraph 5 of Schedule 1 applies for the purposes of subsection (3) as it applies for the purposes of that Schedule.
- (5) So much of the loss accruing in the tax year as would, in accordance with section 3(9), have reduced or extinguished a gain treated as accruing to the individual in that year as a result of section 3 if the residence assumption were made is to be treated as accruing to the individual in the period of return.
- (6) For the purposes of this section the “residence assumption” is—
- (a) that the individual was resident in the United Kingdom for the tax year in which the gain or loss accrued to the company, and
  - (b) that the tax year was not a split year as respects the individual.
- (7) Nothing in any double taxation arrangements prevents a charge to capital gains tax arising as a result of this section.
- (8) For the purposes of this section each of the following expressions has the meaning given by Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance)—
- “the period of return”
  - “temporarily non-resident”
  - “the temporary period of non-residence”.]

**Status:**

Point in time view as at 12/02/2019.

**Changes to legislation:**

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