



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART I

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

##### *Capital gains tax*

#### **2 Persons and gains chargeable to capital gains tax, and allowable losses.**

- (1) Subject to any exceptions provided by this Act, and without prejudice to sections 10 and 276, a person shall be chargeable to capital gains tax in respect of chargeable gains accruing to him in a year of assessment during any part of which he is resident in the United Kingdom, or during which he is ordinarily resident in the United Kingdom.
- (2) Capital gains tax shall be charged on the total amount of chargeable gains accruing to the person chargeable in the year of assessment, after deducting—
  - (a) any allowable losses accruing to that person in that year of assessment, and
  - (b) so far as they have not been allowed as a deduction from chargeable gains accruing in any previous year of assessment, any allowable losses accruing to that person in any previous year of assessment (not earlier than the year 1965-66).
- (3) Except as provided by section 62, an allowable loss accruing in a year of assessment shall not be allowable as a deduction from chargeable gains accruing in any earlier year of assessment, and relief shall not be given under this Act more than once in respect of any loss or part of a loss, and shall not be given under this Act if and so far as relief has been or may be given in respect of it under the Income Tax Acts.
- <sup>[F1]</sup>(4) Where any amount is treated by virtue of any of sections 77, 86, 87 and 89(2) (read, where applicable, with section 10A) as an amount of chargeable gains accruing to any person in any year of assessment—
  - (a) that amount shall be disregarded for the purposes of subsection (2) above; and

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- (b) the amount on which that person shall be charged to capital gains tax for that year (instead of being the amount given by that subsection) shall be the sum of the amounts specified in subsection (5) below.
- (5) Those amounts are—
- (a) the amount which after—
- (i) making any deductions for which subsection (2) provides, and
- (ii) applying any reduction in respect of taper relief under section 2A,
- is the amount given for the year of assessment by the application of that subsection in accordance with subsection (4)(a) above;
- [ every amount which is treated by virtue of sections 77 and 86 as an amount of chargeable gains accruing to the person in question for that year, reduced as follows—
- (i) first, by making the deductions for which subsection (2) provides in respect of any allowable losses accruing to that person;
- (ii) then, where taper relief would be deductible by the trustees of the settlement in question but for section 77(1)(b)(i) or 86(1)(e)(ii), by applying reductions in respect of taper relief under section 2A at the rates that would be applicable in the case of the trustees;
- and]
- (b) every amount which is treated by virtue of sections <sup>F3</sup>... 87 and 89(2) (read, where applicable, with section 10A) as an amount of chargeable gains accruing to the person in question in that year.]
- [<sup>F4</sup>(6) Allowable losses must (notwithstanding section 2A(6)) be deducted under paragraph (a)(i) of subsection (5) above before any may be deducted under paragraph (aa)(i) of that subsection.
- (7) Where in any year of assessment—
- (a) there are amounts treated as accruing to a person by virtue of section 77 or 86,
- (b) two or more of those amounts, or elements of them—
- (i) relate to different settlements, and
- (ii) attract taper relief (by virtue of subsection (5)(aa)(ii) above) at the same rate, or are not eligible for taper relief, and
- (c) losses are deductible from the amounts or elements mentioned in paragraph (b) above (“the equal-tapered amounts”) but are not enough to exhaust them all,
- the deduction applicable to each of the equal-tapered amounts shall be the appropriate proportion of the aggregate of those losses.
- The “appropriate proportion” is that given by dividing the equal-tapered amount in question by the total of the equal-tapered amounts.
- (8) The references to section 86 in subsection (5)(aa) above (in the opening words) and subsection (7)(a) above include references to that section read with section 10A.]

#### Textual Amendments

- F1** S. 2(4)(5) inserted (with effect in accordance with s. 121(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 21 para. 2](#)

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- F2** S. 2(5)(aa) substituted for word following s. 2(5)(a) (with effect in accordance with Sch. 11 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 11 para. 2\(2\)](#)
- F3** Words in s. 2(5)(b) repealed (with effect in accordance with Sch. 11 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 11 para. 2\(3\)](#), [Sch. 40 Pt. 3\(4\)](#)
- F4** S. 2(6)-(8) inserted (with effect in accordance with Sch. 11 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 11 para. 2\(4\)](#)

## **[<sup>F5</sup>2A Taper relief.**

- (1) This section applies where, for any year of assessment—
- there is, in any person's case, an excess of the total amount referred to in subsection (2) of section 2 over the amounts falling to be deducted from that amount in accordance with that subsection; and
  - the excess is or includes an amount representing the whole or a part of any chargeable gain that is eligible for taper relief.
- (2) The amount on which capital gains tax is taken to be charged by virtue of section 2(2) shall be reduced to the amount computed by—
- applying taper relief to so much of every chargeable gain eligible for that relief as is represented in the excess;
  - aggregating the results; and
  - adding to the aggregate of the results so much of every chargeable gain not eligible for taper relief as is represented in the excess.
- (3) Subject to the following provisions of this Act, a chargeable gain is eligible for taper relief if—
- it is a gain on the disposal of a business asset with a qualifying holding period of at least one year; or
  - it is a gain on the disposal of a non-business asset with a qualifying holding period of at least three years.
- (4) Where taper relief falls to be applied to the whole or any part of a gain on the disposal of a business or non-business asset, that relief shall be applied by multiplying the amount of that gain or part of a gain by the percentage given by the table in subsection (5) below for the number of whole years in the qualifying holding period of that asset.
- (5) That table is as follows—

<b>[<sup>F6</sup>Gains on disposals of business assets]</b>		<b>Gains on disposals of non-business assets</b>	
<b>[<sup>F7</sup>Number of whole years in qualifying holding period</b>	<b>Percentage of gain chargeable</b>	<b>Number of whole years in qualifying holding period</b>	<b>Percentage of gain chargeable</b>
1	50	—	—
2 or more	25]	—	—
		3	95
		4	90

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5	85
6	80
7	75
8	70
9	65
10 or more	60

- (6) The extent to which the whole or any part of a gain on the disposal of a business or non-business asset is to be treated as represented in the excess mentioned in subsection (1) above shall be determined by treating deductions made in accordance with section 2(2)(a) and (b) as set against chargeable gains in such order as results in the largest reduction under this section of the amount charged to capital gains tax under section 2.
- (7) Schedule A1 shall have effect for the purposes of this section.
- [<sup>F8</sup>(8) The qualifying holding period of an asset for the purposes of this section is—
- (a) in the case of a business asset, the period after 5th April 1998 for which the asset had been held at the time of its disposal;
  - (b) in the case of a non-business asset where—
    - (i) the time which, for the purposes of paragraph 2 of Schedule A1, is the time when the asset is taken to have been acquired by the person making the disposal is a time before 17th March 1998, and
    - (ii) there is no period which by virtue of paragraph <sup>F9</sup>... 12 of that Schedule does not count for the purposes of taper relief, the period mentioned in paragraph (a) plus one year;
  - (c) in the case of any other non-business asset, the period mentioned in paragraph (a).

This subsection is subject to paragraph 2(4) of Schedule A1 and paragraph 3 of Schedule 5BA.]]

#### Textual Amendments

- F5** S. 2A inserted (with effect in accordance with s. 121(4) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 121\(1\)](#)
- F6** Words in s. 2A(5) substituted (with application in accordance with s. 66(4) of the amending Act) by [Finance Act 2000 \(c. 17\), s. 66\(2\)](#)
- F7** Words in s. 2A(5) substituted (with application in accordance with s. 46(2) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 46\(1\)](#)
- F8** S. 2A(8) substituted for s. 2A(8)(9) (with application in accordance with s. 66(4) of the amending Act) by [Finance Act 2000 \(c. 17\), s. 66\(3\)](#)
- F9** Words in s. 2A(8)(b)(ii) repealed (with effect in accordance with Sch. 10 paras. 2, 4, 7, Sch. 40 Pt. 3(3) Note of the amending Act) by [Finance Act 2002 \(c. 23\), Sch. 40 Pt. 3\(3\)](#)

### 3 Annual exempt amount.

- (1) An individual shall not be chargeable to capital gains tax in respect of so much of his taxable amount for any year of assessment as does not exceed the exempt amount for the year.

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- (2) Subject to subsection (3) below, the exempt amount for any year of assessment shall be £5,500.
- (3) If the retail prices index for the month of [<sup>F10</sup>September] preceding a year of assessment is higher than it was for the previous [<sup>F10</sup>September], then, unless Parliament otherwise determines, subsection (2) above shall have effect for that year as if for the amount specified in that subsection as it applied for the previous year (whether by virtue of this subsection or otherwise) there were substituted an amount arrived at by increasing the amount for the previous year by the same percentage as the percentage increase in the retail prices index and, if the result is not a multiple of £100, rounding it up to the nearest amount which is such a multiple.
- (4) The Treasury shall, before each year of assessment, make an order specifying the amount which by virtue of this section is the exempt amount for that year.
- [<sup>F11</sup>(5) For the purposes of this section an individual's taxable amount for any year of assessment is the amount which, after—
  - (a) making every deduction for which section 2(2) provides,
  - (b) applying any reduction in respect of taper relief under section 2A, and
  - (c) adding any amounts falling to be added by virtue of section 2(5)(b),is (apart from this section) the amount for that year on which that individual is chargeable to capital gains tax in accordance with section 2.
- (5A) Where, in the case of any individual, the amount of the adjusted net gains for any year of assessment is equal to or less than the exempt amount for that year, no deduction shall be made for that year in respect of—
  - (a) any allowable losses carried forward from a previous year; or
  - (b) any allowable losses carried back from a subsequent year in which the individual dies.
- (5B) Where, in the case of any individual, the amount of the adjusted net gains for any year of assessment exceeds the exempt amount for the year, the deductions made for that year in respect of allowable losses falling within subsection (5A)(a) or (b) above shall not be greater than the excess.
- (5C) In subsections (5A) and (5B) above the references, in relation to any individual's case, to the adjusted net gains for any year are references to the amount given in his case by—
  - (a) taking the amount for that year from which the deductions for which section 2(2)(a) and (b) provides are to be made;
  - (b) deducting only the amounts falling to be deducted in accordance with section 2(2)(a); and
  - (c) in a year in which any amount falls to be brought into account by virtue of section 2(5)(b), adding whichever is the smaller of the exempt amount for that year and the amount falling to be so brought into account.]
  - (6) Where in a year of assessment—
    - (a) the amount of chargeable gains accruing to an individual does not exceed the exempt amount for the year, and
    - (b) the aggregate amount or value of the consideration for all the disposals of assets made by him (other than disposals gains accruing on which are not chargeable gains) does not exceed an amount equal to twice the exempt amount for the year,

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a statement to the effect of paragraphs (a) and (b) above shall, unless the inspector otherwise requires, be sufficient compliance with any notice under section 8 of the Management Act requiring the individual to make a return of the chargeable gains accruing to him in that year.

(7) For the year of assessment in which an individual dies and for the next 2 following years, subsections (1) to (6) above shall apply to his personal representatives as they apply to an individual.

[<sup>F12</sup>(7A) As they apply by virtue of subsection (7) above—

- (a) subsection (5A) has effect with the omission of paragraph (b), and
- (b) subsection (5B) has effect with the omission of the words “or (b)”.]

(8) Schedule 1 shall have effect as respects the application of this section to trustees.

#### Textual Amendments

- F10** Words in s. 3(3) substituted (27.7.1993 with effect for the years 1994-95 and subsequent years as mentioned in s. 83(2)) by [1993 c. 34, s. 83\(1\)](#)
- F11** S. 3(5)(5A)(5B)(5C) substituted for s. 3(5) (with effect in accordance with s. 121(4) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 21 para. 3](#)
- F12** S. 3(7A) inserted (retrospectively) by [Finance Act 2003 \(c. 14\), Sch. 28 paras. 3\(4\), 8](#)

#### Modifications etc. (not altering text)

- C1** S. 3 amended (for the year 1993-1994) by [S.I. 1993/760, art. 2](#)  
S. 3 modified (for the year 1993-1994) by [1993 c. 34, s. 82](#)
- C2** S. 3(2) sum amended (for the year 1994-95) by [Finance Act 1994 \(c. 9\), s. 90](#)
- C3** S. 3(2) sum amended (for the year 1996-97) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 1995 \(S.I. 1995/3033\), art. 2](#)
- C4** S. 3(2) sum amended (for the year 1997-98) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 1996 \(S.I. 1996/2957\), art. 2](#)
- C5** S. 3(2) sum amended (for the year 1998-99) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 1998 \(S.I. 1998/757\), art. 2](#)
- C6** S. 3(2) sum amended (for the year 1999-2000) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 1999 \(S.I. 1999/591\), art. 2](#)
- C7** S. 3(2) sum amended (for the year 2000-01) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2000 \(S.I. 2000/808\), art. 2](#)
- C8** S. 3(2) sum amended (for the year 2001-02) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2001 \(S.I. 2001/636\), art. 2](#)
- C9** S. 3(2) sum amended (for the year 2002-03) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2002 \(S.I. 2002/702\), art. 2](#)
- C10** S. 3(3) excluded (for the year 1994-95) by [Finance Act 1994 \(c. 9\), s. 90](#)

## 4 Rates of capital gains tax.

(1) Subject to the provisions of this section <sup>F13</sup>... , the rate of capital gains tax in respect of gains accruing to a person in a year of assessment shall be equivalent to the [<sup>F14</sup>lower rate] of income tax for the year.

[<sup>F15</sup>(1AA) The rate of capital gains tax in respect of gains accruing to—

- (a) the trustees of a settlement, or
- (b) the personal representatives of a deceased person,

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in a year of assessment shall be equivalent to the rate which for that year is [<sup>F16</sup>the rate applicable to trusts under section 686 of the Taxes Act].]

[<sup>F17</sup>(1AB) If (after allowing for any deductions in accordance with the Income Tax Acts) an individual has no income for a year of assessment or his total income for the year is less than the starting rate limit, then—

- (a) if the amount on which he is chargeable to capital gains tax does not exceed the unused part of his starting rate band, the rate of capital gains tax in respect of gains accruing to him in the year shall be equivalent to the starting rate;
- (b) if the amount on which he is chargeable to capital gains tax exceeds the unused part of his starting rate band, the rate of capital gains tax in respect of such gains accruing to him in the year as correspond to the unused part shall be equivalent to the starting rate.

(1AC) The references in subsection (1AB) above to the unused part of an individual's starting rate band are to the amount by which the starting rate limit exceeds his total income (as reduced by any deductions made in accordance with the Income Tax Acts).]

<sup>F18</sup>(1A) . . . . .

<sup>F18</sup>(1B) . . . . .

(2) If income tax is chargeable at the higher rate [<sup>F19</sup>or the Schedule F upper rate] in respect of any part of the income of an individual for a year of assessment, the rate of capital gains tax in respect of gains accruing to him in the year shall be equivalent to the higher rate.

(3) If no income tax is chargeable at the higher rate [<sup>F20</sup>or the Schedule F upper rate] in respect of the income of an individual for a year of assessment, but the amount on which he is chargeable to capital gains tax exceeds the unused part of his basic rate band, the rate of capital gains tax on the excess shall be equivalent to the higher rate of income tax for the year.

<sup>F21</sup>(3A) . . . . .

<sup>F21</sup>(3B) . . . . .

(4) The reference in subsection (3) above to the unused part of an individual's basic rate band is a reference to the amount by which <sup>F22</sup>... the basic rate limit exceeds his total income (as reduced by any deductions made in accordance with the Income Tax Acts).

**Textual Amendments**

**F13** Words in s. 4(1) repealed (with effect in accordance with s. 120(2) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 27 Pt. III\(29\)](#)

**F14** Words in s. 4(1) substituted (with effect in accordance with s. 26(6) of the amending Act) by [Finance Act 1999 \(c. 16\), s. 26\(2\)](#)

**F15** S. 4(1AA) inserted (with application in accordance with s. 120(2) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 120\(1\)](#)

**F16** Words in s. 4(1AA) substituted (with effect in accordance with s. 26(6) of the amending Act) by [Finance Act 1999 \(c. 16\), s. 26\(3\)](#)

**F17** S. 4(1AB)(1AC) inserted (with effect in accordance with s. 37(2) of the amending Act) by [Finance Act 2000 \(c. 17\), s. 37\(1\)](#)

**F18** S. 4(1A)(1B) repealed (with effect in accordance with s. 26(6) of the amending Act) by [Finance Act 1999 \(c. 16\), s. 26\(4\), Sch. 20 Pt. III\(1\)](#)

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- F19** Words in s. 4(2) inserted (with effect in accordance with Sch. 4 para. 24(6) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), **Sch. 4 para. 24(2)**
- F20** Words in s. 4(3) inserted (with effect in accordance with Sch. 4 para. 24(6) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), **Sch. 4 para. 24(3)**
- F21** S. 4(3A)(3B) repealed (with effect in accordance with s. 26(6) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), s. 26(4), **Sch. 20 Pt. III(1)**
- F22** Words in s. 4(4) repealed (with effect in accordance with s. 26(6) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), s. 26(5), **Sch. 20 Pt. III(1)**

**<sup>F23</sup>5 Accumulation and discretionary settlements.**

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**Textual Amendments**

**F23** S. 5 repealed (with effect in accordance with s. 120(2) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 27 Pt. III(29)**

**6 Other special cases.**

<sup>F24</sup>(1) .....

- (2) Where for any year of assessment—
  - (a) by virtue of section 549(2) of the Taxes Act (gains under life policy or life annuity contract) a deduction of an amount is made from a person’s total income for the purposes of excess liability, or
  - <sup>F25</sup>(b) .....
  - (c) by virtue of section 699(1) of that Act (income accruing before death) the residuary income of an estate is treated as reduced so as to reduce a person’s income by any amount for those purposes,
 section 4(4) shall have effect as if his income for the year were reduced by that amount.

- (3) Where by virtue of section 547(1)(a) of the Taxes Act (gains from insurance policies etc.) a person’s total income for a year of assessment is deemed to include any amount or amounts—
  - (a) section 4(4) shall have effect as if his total income included not the whole of the amount or amounts concerned but only the appropriate fraction within the meaning of section 550(3) of that Act, and
  - (b) if relief is given under section 550 of that Act and the calculation required by section 550(2)(b) does not involve the higher rate of income tax, section 4(2) and (3) shall have effect as if no income tax were chargeable at the higher rate [<sup>F26</sup>or the Schedule F upper rate] in respect of his income.

(4) Nothing in subsection (1) above shall be taken to reduce, and nothing in subsections (2) and (3) above shall be taken to increase, the amount of the deduction which a person is entitled to make from his total income by virtue of any provision of Chapter I of Part VII of the Taxes Act which limits any allowance by reference to the level of his total income.



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**Textual Amendments**

- F24** S. 6(1) repealed (with effect in accordance with s. 74(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. VIII\(8\)](#)
- F25** S. 6(2)(b) repealed (with effect in accordance with s. 74(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. VIII\(8\)](#)
- F26** Words in s. 6(3)(b) inserted (with effect in accordance with Sch. 4 para. 25(2) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [Sch. 4 para. 25\(1\)](#)

**F277 Time for payment of tax.**

.....

**Textual Amendments**

- F27** S. 7 repealed (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), s. 115(12), [Sch. 29 Pt. VIII\(14\)](#)

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