



# 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) If chargeable gains are treated by virtue of section 87 or 89(2) as accruing to a person in a tax year (“the relevant deemed gains”)—
  - (a) subsection (2) has effect as if the relevant deemed gains had not accrued, and
  - (b) the amount on which the person is charged to capital gains tax for that year is the sum of—

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- (i) the amount given by subsection (2) as it has effect by virtue of paragraph (a), and
- (ii) the amount of the relevant deemed gains.

(5) In subsection (4) the reference to section 87 or 89(2) is to that section read, where appropriate, with section 10A.]

[<sup>F2</sup>(7) Where in any year of assessment—

- (a) there are amounts treated as accruing to a person by virtue of section <sup>F3</sup>... 86,
- (b) two or more of those amounts, or elements of them—
  - (i) relate to different settlements, <sup>F4</sup>...
  - <sup>F4</sup>(ii) .....

(c) losses are deductible from the amounts or elements mentioned in paragraph (b) above <sup>F5</sup>... but are not enough to exhaust them all,

the deduction applicable to each of the <sup>F6</sup>... amounts shall be the appropriate proportion of the aggregate of those losses.

The “appropriate proportion” is that given by dividing the <sup>F6</sup>... amount in question by the total of the <sup>F6</sup>... amounts.

<sup>F7</sup>(8) .....

#### Textual Amendments

- F1** S. 2(4)(5) substituted for s. 2(4)-(6) (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 24(2)**
- F2** 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)**
- F3** Words in s. 2(7)(a) omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 2**
- F4** S. 2(7)(b)(ii) and preceding word omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 24(3)(a)**
- F5** Words in s. 2(7)(c) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 24(3)(b)**
- F6** Words in s. 2(7) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 24(3)(c)**
- F7** S. 2(8) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 24(4)**

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

- C1** S. 2(1) applied (with effect in accordance with art. 1(2)(3), Sch. 1 of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), **regs. 1(1), 22(1)(a)**
- C2** S. 2(1) extended by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\)](#), reg. 850 (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2010/294](#), **regs. 1(1), 21**)

#### <sup>F8</sup>2A Taper relief.

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### Textual Amendments

- F8** S. 2A omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 25**

## 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.
- [<sup>F9</sup>(1A) Subsection (1) does not apply to an individual for a tax year if section 809B of ITA 2007 (claim for remittance basis to apply) applies to the individual for that year.]
- [<sup>F10</sup>(2) The exempt amount for a tax year is [<sup>F11</sup>£10,600].]
- [<sup>F12</sup>(3) If there is a relevant increase in [<sup>F13</sup>CPI] in relation to a tax year—
- (a) the exempt amount is to be increased in accordance with Steps 1 and 2, and
  - (b) subsection (2) has effect from then on (for that and subsequent tax years) as if it referred to the increased amount,
- unless Parliament otherwise determines.
- (3A) There is a relevant increase in [<sup>F14</sup>CPI] in relation to a tax year if the [<sup>F15</sup>consumer prices index] for the September before the start of the tax year is higher than it was for the previous September.
- (3B) Steps 1 and 2 are—
- Step 1* Increase the exempt amount for the previous tax year by the same percentage as the percentage of the relevant increase in [<sup>F16</sup>CPI].
  - Step 2* If the result of Step 1 is not a multiple of £100, round it up to the nearest multiple of £100.
- (4) If there is a relevant increase in [<sup>F17</sup>CPI] in relation to a tax year, the Treasury must before the start of that tax year make an order showing the amount arrived at as a result of Steps 1 and 2.]
- [<sup>F18</sup>(5) For the purposes of this section an individual's taxable amount for any year of assessment is the amount [<sup>F19</sup>which] 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.

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(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;
- <sup>F20</sup>(aa) if section 16ZB (certain chargeable gains charged on remittance basis) applies for that year, deducting the amount of the relevant gains (within the meaning of that section),]
- (b) deducting [<sup>F21</sup>(from the amount mentioned in paragraph (a), as reduced under paragraph (aa))] only the amounts falling to be deducted in accordance with section 2(2)(a); and
- (c) [<sup>F22</sup>if section 2(4) applies for that year,], adding whichever is the smaller of the exempt amount for that year and the amount [<sup>F23</sup>mentioned in section 2(4) (b)(ii)].]

<sup>F24</sup>(6) .....

(7) For the year of assessment in which an individual dies and for the next 2 following years, [<sup>F25</sup>subsections (1) to (5C)] above shall apply to his personal representatives as they apply to an individual.

<sup>F26</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

- F9** S. 3(1A) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 56\(2\)](#)
- F10** S. 3(2) substituted (with effect in accordance with s. 8(4) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [s. 8\(2\)](#)
- F11** Words in s. 3(2) substituted (for the tax year 2012-13 and subsequent tax years in accordance with s. 34(5) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 34\(2\)](#)
- F12** S. 3(3)(3A)(3B)(4) substituted for s. 3(3)(4) (with effect in accordance with s. 8(6) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [s. 8\(3\)](#)
- F13** Word in s. 3(3) substituted (for the tax year 2013-14 and subsequent tax years in accordance with s. 34(7) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 34\(3\)\(a\)](#)
- F14** Words in s. 3(3A) substituted (for the tax year 2013-14 and subsequent tax years in accordance with s. 34(7) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 34\(3\)\(a\)](#)
- F15** Words in s. 3(3A) substituted (for the tax year 2013-14 and subsequent tax years in accordance with s. 34(7) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 34\(3\)\(b\)](#)
- F16** Words in s. 3(3B) substituted (for the tax year 2013-14 and subsequent tax years in accordance with s. 34(7) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 34\(3\)\(a\)](#)
- F17** Words in s. 3(4) substituted (for the tax year 2013-14 and subsequent tax years in accordance with s. 34(7) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 34\(3\)\(a\)](#)
- F18** 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](#)
- F19** Word in s. 3(5) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 26\(2\)](#)

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- F20** S. 3(5C)(aa) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 56\(3\)\(a\)](#)
- F21** Words in s. 3(5C)(b) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 56\(3\)\(b\)](#)
- F22** Words in s. 3(5C)(c) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 26\(3\)\(a\)](#)
- F23** Words in s. 3(5C)(c) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 26\(3\)\(b\)](#)
- F24** S. 3(6) repealed (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 3\(2\)](#), [Sch. 43 Pt. 3\(7\)](#)
- F25** Words in s. 3(7) substituted (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 3\(3\)](#)
- F26** S. 3(7A) inserted (retrospectively) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 paras. 3\(4\), 8](#)

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

- C3** 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](#)
- C4** S. 3 excluded (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 109\(2\)\(b\)](#)
- C5** S. 3(2) sum amended (for the year 1994-95) by [Finance Act 1994 \(c. 9\)](#), [s. 90](#)
- C6** 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](#)
- C7** 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](#)
- C8** 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](#)
- C9** 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](#)
- C10** 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](#)
- C11** 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](#)
- C12** 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](#)
- C13** S. 3(2) sum amended (for the year 2003-04) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2003 \(S.I. 2003/842\)](#), [art. 2](#)
- C14** S. 3(2) sum amended (for the year 2005-06) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2005 \(S.I. 2005/721\)](#), [art. 2](#)
- C15** S. 3(2) sum amended (for the year 2007-08) by [The Capital Gains Tax \(Annual Exempt Amount\) Order 2007 \(S.I. 2007/942\)](#), [art. 2](#)
- C16** S. 3(3) excluded (for the tax year 2011-12) by [Finance Act 2011 \(c. 11\)](#), [s. 8\(5\)](#)
- C17** S. 3(3) excluded (for the tax year 2012-13) by [Finance Act 2012 \(c. 14\)](#), [s. 34\(6\)](#)

### **[<sup>F27</sup>3A Reporting limits**

- (1) Where in the case of an individual—
- (a) the amount of chargeable gains accruing to him in any year of assessment does not exceed the exempt amount for that year, and
  - (b) the aggregate amount or value of the consideration for all chargeable disposals of assets made by him in that year does not exceed four times the exempt amount for that year,

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a statement to that effect is sufficient compliance with so much of any notice under section 8 of the Management Act as requires information for the purposes of establishing the amount in which he is chargeable to capital gains tax for that year.

(2) For the purposes of subsection (1)(a) above—

<sup>F28</sup>(a) .....

(b) the amount of chargeable gains accruing to an individual in a year of assessment for which [<sup>F29</sup>a deduction falls to be made in respect of allowable losses is the amount before the deduction].

(3) For the purposes of subsection (1)(b) above a “chargeable disposal” is any disposal other than—

(a) a disposal on which any gain accruing is not a chargeable gain, or

(b) a disposal the consideration for which is treated by virtue of section 58 [<sup>F30</sup>(spouses and civil partners)] as being such that neither a gain nor a loss would accrue.

(4) Subsection (1) above applies to personal representatives (for the year of assessment in which the individual in question dies and for the next 2 following years) as it applies to an individual.

(5) Subsection (1) above applies to the trustees of a settlement in accordance with Schedule 1.

[ Subsection (1) does not apply to an individual for a tax year if—

<sup>F31</sup>(5A) (a) section 809B of ITA 2007 (claim for remittance basis to apply), or

(b) section 16ZB below (certain chargeable gains charged on remittance basis), applies to the individual for that year.]

(6) In this section “exempt amount” has the meaning given by section 3 (read, where appropriate, with Schedule 1).]

#### Textual Amendments

**F27** S. 3A inserted (with application in accordance with Sch. 28 para. 7 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 28 para. 1](#)

**F28** S. 3A(2)(a) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 27\(a\)](#)

**F29** Words in s. 3A(2)(b) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 27\(b\)](#)

**F30** Words in s. 3A(3)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [106](#)

**F31** S. 3A(5A) inserted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 57](#)

#### <sup>F32</sup>4 Rates of capital gains tax

(1) This section makes provision about the rates at which capital gains tax is charged, but is subject to section 169N (rate in case of claim for entrepreneurs' relief).

(2) Subject to the following provisions of this section, the rate of capital gains tax in respect of gains accruing to a person in a tax year is 18%.

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- (3) 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,in a tax year is 28%.
- (4) If income tax is chargeable at the higher rate or the dividend upper rate in respect of any part of the income of an individual for a tax year, the rate of capital gains tax in respect of gains accruing to the individual in the year is 28%.
- (5) If no income tax is chargeable at the higher rate or the dividend upper rate in respect of the income of an individual for a tax year, but the amount on which the individual is chargeable to capital gains tax exceeds the unused part of the individual's basic rate band, the rate of capital gains tax on the excess is 28%.
- (6) For the purposes of subsection (5), gains which are chargeable to capital gains tax at the rate in section 169N(3) are to be treated as forming the lowest part of the amount on which an individual is chargeable to capital gains tax.
- (7) The reference in subsection (5) to the unused part of an individual's basic rate band is a reference to the amount by which the basic rate limit exceeds the individual's Step 3 income.
- (8) For the purposes of this section, “the Step 3 income” of an individual means the individual's net income less allowances deducted at Step 3 of the calculation in section 23 of ITA 2007 for the purpose of calculating the individual's income tax liability.
- (9) Section 989 of ITA 2007 (the definitions) applies for the purposes of this section as it applies for income tax purposes.]

#### Textual Amendments

- F32** Ss. 4, 4A substituted (with effect in accordance with Sch. 1 para. 12 of the amending Act) for s. 4 by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), [Sch. 1 para. 2](#) (with [Sch. 1 para. 18](#))

#### [<sup>F32</sup>4A Section 4: special cases

- (1) Subsection (2) applies if for a tax year—
  - (a) a person is entitled, by virtue of section 539 of ITTOIA 2005 (gains from contracts for life insurance etc), to relief by reference to the amount of a deficiency, or
  - (b) the residuary income of an estate is treated, by virtue of section 669(1) and (2) of that Act (reduction in residuary income: inheritance tax on accrued income), as reduced so as to reduce a person's income by any amount for the purposes of extra liability.
- (2) Section 4(7) is to have effect as if the person's Step 3 income for the year were reduced by the amount of the deficiency mentioned in subsection (1)(a) or the amount mentioned in subsection (1)(b) (as the case may be).
- (3) Subsections (4) and (5) apply if, by virtue of section 465 of ITTOIA 2005 (gains from contracts for life insurance etc), a person's total income for a tax year is deemed to include any amount or amounts.

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- (4) Section 4(7) is to have effect as if the person's Step 3 income for the year included not the whole of the amount or amounts concerned but only the annual equivalent within the meaning of section 536(1) of that Act or the total annual equivalent within the meaning of section 537 of that Act (as the case may be).
- (5) If—
- (a) relief is given under section 535 of that Act, and
  - (b) the calculation under section 536(1) or 537 of that Act (as the case may be) does not involve the higher rate of income tax,
- section 4(4) and (5) are to have effect as if no income tax were chargeable at the higher rate or the dividend upper rate in respect of the person's income.]

#### Textual Amendments

**F32** Ss. 4, 4A substituted (with effect in accordance with Sch. 1 para. 12 of the amending Act) for s. 4 by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), [Sch. 1 para. 2](#) (with [Sch. 1 para. 18](#))

#### <sup>F33</sup>**4B Deduction of losses etc in most beneficial way**

- (1) This section applies if the gains accruing to a person in a tax year are (apart from this section) chargeable to capital gains tax at different rates.
- (2) Allowable losses may be deducted from those gains, and the exempt amount under section 3 may be used in respect of those gains, in such way as is most beneficial to that person.
- (3) Subsection (2) is subject to any enactment which contains a limitation on the gains from which allowable losses may be deducted.]

#### Textual Amendments

**F33** S. 4B inserted (with effect in accordance with Sch. 1 para. 13 of the amending Act) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), [Sch. 1 para. 3](#)

#### <sup>F34</sup>**5 Accumulation and discretionary settlements.**

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#### Textual Amendments

**F34** 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\(29\)](#)

#### <sup>F35</sup>**6 Other special cases.**

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**Textual Amendments**

**F35** S. 6 omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 3](#)

**F367 Time for payment of tax.**

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**Textual Amendments**

**F36** 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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