



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART VII

#### OTHER PROPERTY, BUSINESSES, INVESTMENTS ETC.

##### *Private residences*

#### **222 Relief on disposal of private residence.**

- (1) This section applies to a gain accruing to an individual so far as attributable to the disposal of, or of an interest in—
  - (a) a dwelling-house or part of a dwelling-house which is, or has at any time in his period of ownership been, his only or main residence, or
  - (b) land which he has for his own occupation and enjoyment with that residence as its garden or grounds up to the permitted area.
- (2) In this section “the permitted area” means, subject to subsections (3) and (4) below, an area (inclusive of the site of the dwelling-house) of 0.5 of a hectare.
- [<sup>F1</sup>(3) Where the area required for the reasonable enjoyment of the dwelling-house (or of the part in question) as a residence, having regard to the size and character of the dwelling-house, is larger than 0.5 of a hectare, that larger area shall be the permitted area.]
- (4) Where part of the land occupied with a residence is and part is not within subsection (1) above, then (up to the permitted area) that part shall be taken to be within subsection (1) above which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residence.
- (5) So far as it is necessary for the purposes of this section to determine which of 2 or more residences is an individual’s main residence for any period—
  - (a) the individual may conclude that question by notice to [<sup>F2</sup>an officer of the Board] given within 2 years from the beginning of that period but subject to a right to vary that notice by a further notice to [<sup>F2</sup>an officer of the Board] as

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respects any period beginning not earlier than 2 years before the giving of the further notice,

<sup>F3</sup>(b) .....  
<sup>F4</sup> .....

(6) In the case of [<sup>F5</sup>an individual living with his spouse or civil partner]—

(a) there can only be one residence or main residence for both, so long as living together and, where a notice under subsection (5)(a) above affects both [<sup>F6</sup>the individual and his spouse or civil partner], it must be given by both, <sup>F7</sup>...

<sup>F8</sup>(b) .....

(7) In this section and sections 223 to 226, “the period of ownership” where the individual has had different interests at different times shall be taken to begin from the first acquisition taken into account in arriving at the expenditure which under Chapter III of Part II is allowable as a deduction in the computation of the gain to which this section applies, and in the case of [<sup>F9</sup>an individual living with his spouse or civil partner]—

(a) if the one disposes of, or of his or her interest in, the dwelling-house or part of a dwelling-house which is their only or main residence to the other, and in particular if it passes on death to the other as legatee, the other’s period of ownership shall begin with the beginning of the period of ownership of the one making the disposal, and

(b) if paragraph (a) above applies, but the dwelling-house or part of a dwelling-house was not the only or main residence of both throughout the period of ownership of the one making the disposal, account shall be taken of any part of that period during which it was his only or main residence as if it was also that of the other.

(8) If at any time during an individual’s period of ownership of a dwelling-house or part of a dwelling-house he—

(a) resides in living accommodation which is for him job-related <sup>F10</sup>..., and

(b) intends in due course to occupy the dwelling-house or part of a dwelling-house as his only or main residence,

this section and sections 223 to 226 shall apply as if the dwelling-house or part of a dwelling-house were at that time occupied by him as a residence.

[<sup>F11</sup>(8A) Subject to subsections (8B), (8C) and (9) below, for the purposes of subsection (8) above living accommodation is job-related for a person if—

(a) it is provided for him by reason of his employment, or for his spouse [<sup>F12</sup> or civil partner] by reason of [<sup>F13</sup>the spouse’s or civil partner's] employment, in any of the following cases—

(i) where it is necessary for the proper performance of the duties of the employment that the employee should reside in that accommodation;

(ii) where the accommodation is provided for the better performance of the duties of the employment, and it is one of the kinds of employment in the case of which it is customary for employers to provide living accommodation for employees;

(iii) where, there being a special threat to the employee’s security, special security arrangements are in force and the employee resides in the accommodation as part of those arrangements;

or

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- (b) under a contract entered into at arm's length and requiring him or his spouse <sup>[F12]</sup>or civil partner] to carry on a particular trade, profession or vocation, he or his spouse <sup>[F12]</sup>or civil partner] is bound—
  - (i) to carry on that trade, profession or vocation on premises or other land provided by another person (whether under a tenancy or otherwise); and
  - (ii) to live either on those premises or on other premises provided by that other person.
- (8B) If the living accommodation is provided by a company and the employee is a director of that or an associated company, subsection (8A)(a)(i) or (ii) above shall not apply unless—
  - (a) the company of which the employee is a director is one in which he or she has no material interest; and
  - (b) either—
    - (i) the employment is as a full-time working director, or
    - (ii) the company is non-profit making, that is to say, it does not carry on a trade nor do its functions consist wholly or mainly in the holding of investments or other property, or
    - (iii) the company is established for charitable purposes only.
- (8C) Subsection (8A)(b) above does not apply if the living accommodation concerned is in whole or in part provided by—
  - (a) a company in which the borrower or his spouse <sup>[F14]</sup>or civil partner] has a material interest; or
  - (b) any person or persons together with whom the borrower or his spouse <sup>[F14]</sup>or civil partner] carries on a trade or business in partnership.
- (8D) For the purposes of this section—
  - (a) a company is an associated company of another if one of them has control of the other or both are under the control of the same person; and
  - (b) “employment”, “director”, “full-time working director”, “material interest” and “control”, in relation to a body corporate, have <sup>[F15]</sup>the meanings given by Chapter 2 of Part 3 of ITEPA 2003.]
- (9) <sup>[F16]</sup>Subsections (8A)(b) and (8C) above] shall apply for the purposes of subsection (8) above only in relation to residence on or after 6th April 1983 in living accommodation which is job-related <sup>[F17]</sup>for the purposes of that subsection].
- (10) Apportionments of consideration shall be made wherever required by this section or sections 223 to 226 and, in particular, where a person disposes of a dwelling-house only part of which is his only or main residence.

#### Textual Amendments

- F1** S. 222(3) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 20 para. 59\(2\)](#)
- F2** Words in s. 222(5)(a) substituted (with effect in accordance with Sch. 22 para. 7(1) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 22 para. 1\(2\)](#)
- F3** S. 222(5)(b) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 20 para. 59\(3\)\(a\), Sch. 41 Pt. V\(10\)](#)

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- F4** Words in s. 222(5) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 20 para. 59\(3\)\(b\), Sch. 41 Pt. V\(10\)](#)
- F5** Words in s. 222(6) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\), regs. 1\(1\), 117\(2\)\(a\)](#)
- F6** Words in s. 222(6)(a) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\), regs. 1\(1\), 117\(2\)\(b\)](#)
- F7** Word in s. 222(6) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 20 para. 59\(4\), Sch. 41 Pt. V\(10\)](#)
- F8** S. 222(6)(b) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 20 para. 59\(4\), Sch. 41 Pt. V\(10\)](#)
- F9** Words in s. 222(7) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\), regs. 1\(1\), 117\(3\)](#)
- F10** Words in s. 222(8)(a) repealed (with effect in accordance with Sch. 4 para. 18(4) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 4 para. 17\(2\), Sch. 20 Pt. III\(7\)](#)
- F11** S. 222(8A)-(8D) inserted (with effect in accordance with Sch. 4 para. 18(4) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 4 para. 17\(3\)](#)
- F12** Words in s. 222(8A) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\), regs. 1\(1\), 117\(4\)\(a\)](#)
- F13** Words in s. 222(8A)(a) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\), regs. 1\(1\), 117\(4\)\(b\)](#)
- F14** Words in s. 222(8C) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\), regs. 1\(1\), 117\(5\)](#)
- F15** Words in s. 222(8D)(b) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 213 \(with Sch. 7\)](#)
- F16** Words in s. 222(9) substituted (with effect in accordance with Sch. 4 para. 18(4) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 4 para. 17\(4\)\(a\)](#)
- F17** Words in s. 222(9) substituted (with effect in accordance with Sch. 4 para. 18(4) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 4 para. 17\(4\)\(b\)](#)

## 223 Amount of relief.

- (1) No part of a gain to which section 222 applies shall be a chargeable gain if the dwelling-house or part of a dwelling-house has been the individual's only or main residence throughout the period of ownership, or throughout the period of ownership except for all or any part of the last 36 months of that period.
- (2) Where subsection (1) above does not apply, a fraction of the gain shall not be a chargeable gain, and that fraction shall be—
  - (a) the length of the part or parts of the period of ownership during which the dwelling-house or the part of the dwelling-house was the individual's only or main residence, but inclusive of the last 36 months of the period of ownership in any event, divided by
  - (b) the length of the period of ownership.
- (3) For the purposes of subsections (1) and (2) above—
  - (a) a period of absence not exceeding 3 years (or periods of absence which together did not exceed 3 years), and in addition
  - (b) any period of absence throughout which the individual worked in an employment or office all the duties of which were performed outside the United Kingdom, and in addition
  - (c) any period of absence not exceeding 4 years (or periods of absence which together did not exceed 4 years) throughout which the individual was

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prevented from residing in the dwelling-house or part of the dwelling-house in consequence of the situation of his place of work or in consequence of any condition imposed by his employer requiring him to reside elsewhere, being a condition reasonably imposed to secure the effective performance by the employee of his duties,

shall be treated as if in that period of absence the dwelling-house or the part of the dwelling-house was the individual's only or main residence if both before and after the period there was a time when the dwelling-house was the individual's only or main residence.

(4) Where a gain to which section 222 applies accrues to any individual and the dwelling-house in question or any part of it is or has at any time in his period of ownership been wholly or partly let by him as residential accommodation, the part of the gain, if any, which (apart from this subsection) would be a chargeable gain by reason of the letting, shall be such a gain only to the extent, if any, to which it exceeds whichever is the lesser of—

- (a) the part of the gain which is not a chargeable gain by virtue of the provisions of subsection (1) to (3) above <sup>F18</sup> ... ; and
- (b) £40,000.

(5) Where at any time the number of months specified in subsections (1) and (2)(a) above is 36, the Treasury may by order amend those subsections by substituting references to 24 for the references to 36 in relation to disposals on or after such date as is specified in the order.

(6) Subsection (5) above shall also have effect as if 36 (in both places) read 24 and as if 24 read 36.

(7) In this section—

“period of absence” means a period during which the dwelling-house or the part of the dwelling-house was not the individual's only or main residence and throughout which he had no residence or main residence eligible for relief under this section; and

“period of ownership” does not include any period before 31st March 1982.

[<sup>F19</sup>(8) This section is subject to—

- (a) section 224 (amount of relief: further provisions), and
- (b) section 226A (private residence relief: cases where relief obtained under section 260).]

#### Textual Amendments

**F18** Words in s. 223(4)(a) repealed (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 2\(2\)](#), [Sch. 42 Pt. 2\(15\)](#)

**F19** S. 223(8) inserted (with effect in accordance with Sch. 22 paras. 7(3)(4), 8 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 2\(3\)](#)

## 224 Amount of relief: further provisions.

(1) If the gain [<sup>F20</sup>accrues on] the disposal of a dwelling-house or part of a dwelling-house part of which is used exclusively for the purpose of a trade or business, or of a profession or vocation, the gain shall be apportioned and section 223 shall apply in

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relation to the part of the gain apportioned to the part which is not exclusively used for those purposes.

- (2) If at any time in the period of ownership there is a change in what is occupied as the individual's residence, whether on account of a reconstruction or conversion of a building or for any other reason, or there have been changes as regards the use of part of the dwelling-house for the purpose of a trade or business, or of a profession or vocation, or for any other purpose, the relief given by section 223 [<sup>F21</sup>may be adjusted in a manner which is just and reasonable].
- (3) Section 223 shall not apply in relation to a gain if the acquisition of, or of the interest in, the dwelling-house or the part of a dwelling-house was made wholly or partly for the purpose of realising a gain from the disposal of it, and shall not apply in relation to a gain so far as attributable to any expenditure which was incurred after the beginning of the period of ownership and was incurred wholly or partly for the purpose of realising a gain from the disposal.

#### Textual Amendments

- F20** Words in s. 224(1) substituted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 3\(2\)](#)
- F21** Words in s. 224(2) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 60](#)

## 225 Private residence occupied under terms of settlement.

Sections 222 to 224 shall also apply in relation to a gain accruing to [<sup>F22</sup>the trustees of a settlement] on a disposal of settled property being an asset within section 222(1) where, during the period of ownership of [<sup>F23</sup>the trustees], the dwelling-house or part of the dwelling-house mentioned in that subsection has been the only or main residence of a person entitled to occupy it under the terms of the settlement, and in those sections as so applied—

- (a) references to the individual shall be taken as references to [<sup>F24</sup>the trustees] except in relation to the occupation of the dwelling-house or part of the dwelling-house, and
- (b) the notice which may be given to [<sup>F25</sup>an officer of the Board] under section 222(5)(a) shall be a joint notice by [<sup>F26</sup>the trustees] and the person entitled to occupy the dwelling-house or part of the dwelling-house [<sup>F27</sup>; but section 223 (as so applied) shall apply only on the making of a claim by the trustees.]

#### Textual Amendments

- F22** Words in s. 225 substituted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 4\(2\)\(a\)](#)
- F23** Words in s. 225 substituted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 4\(2\)\(b\)](#)
- F24** Words in s. 225(a) substituted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 4\(3\)](#)
- F25** Words in s. 225(b) substituted (with effect in accordance with Sch. 22 para. 7(1)(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 4\(4\)\(a\)](#)

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- F26** Words in s. 225(b) substituted (with effect in accordance with Sch. 22 para. 7(1)(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 4\(4\)\(b\)](#)
- F27** Words in s. 225 inserted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 4\(5\)](#)

## [<sup>F28</sup> 225A Private residence held by personal representatives

- (1) Sections 222 to 224 shall also apply in relation to a gain accruing to the personal representatives of a deceased person on a disposal of an asset within section 222 (1) if the following conditions are satisfied.
- (2) The first condition is that, immediately before and immediately after the death of the deceased person, the dwelling-house or part of the dwelling-house mentioned in section 222 (1) was the only or main residence of one or more individuals.
- (3) The second condition is that—
  - (a) that individual or one of those individuals has a relevant entitlement, or two or more of those individuals have relevant entitlements, and
  - (b) the relevant entitlement accounts for, or the relevant entitlements together account for, 75% or more of the net proceeds of disposal;and for this purpose “relevant entitlement” means an entitlement as legatee of the deceased person to, or to an interest in possession in, the whole or any part of the net proceeds of disposal.
- (4) In subsection (3) above “net proceeds of disposal” means—
  - (a) the proceeds of the disposal of the asset realised by the personal representatives, less
  - (b) any incidental costs allowable as a deduction in accordance with section 38(1)
  - (c) in computing the gain accruing to the personal representatives on that disposal,but on the assumption that none of the proceeds is required to meet the liabilities of the deceased person’s estate (including any liability to inheritance tax).
- (5) In sections 222 to 224 as applied by this section—
  - (a) references to the individual shall be taken as references to the personal representatives except in relation to the occupation of the dwelling-house or part of the dwelling-house, and
  - (b) the notice which may be given to an officer of the Board under section 222(5)
    - (a) shall be a joint notice by the personal representatives and the individual or individuals entitled to occupy the dwelling-house or part of the dwelling-house.
- (6) But section 223 (as so applied) shall apply only on the making of a claim by the personal representatives.]

### Textual Amendments

- F28** S. 225A inserted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 5](#)

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## 226 Private residence occupied by dependent relative before 6th April 1988.

- (1) Subject to subsection (3) below, this section applies to a gain accruing to an individual so far as attributable to the disposal of, or of an interest in, a dwelling-house or part of a dwelling-house which, on 5th April 1988 or at any earlier time in his period of ownership, was the sole residence of a dependent relative of the individual, provided rent-free and without any other consideration.
- (2) If the individual so claims, such relief shall be given in respect of it and its garden or grounds as would be given under sections 222 to 224 if the dwelling-house (or part of the dwelling-house) had been the individual's only or main residence in the period of residence by the dependent relative, and shall be so given in addition to any relief available under those sections apart from this section.
- (3) If in a case within subsection (1) above the dwelling-house or part ceases, whether before 6th April 1988 or later, to be the sole residence (provided as mentioned above) of the dependent relative, any subsequent period of residence beginning on or after that date by that or any other dependent relative shall be disregarded for the purposes of subsection (2) above.
- (4) Not more than one dwelling-house (or part of a dwelling-house) may qualify for relief as being the residence of a dependent relative of the claimant at any one time nor, in the case of [<sup>F29</sup>an individual and his spouse or civil partner living with him], as being the residence of a dependent relative of the claimant or of the claimant's [<sup>F30</sup>spouse or civil partner] at any one time.
- <sup>F31</sup>(5) .....
- (6) In this section “dependent relative” means, in relation to an individual—
  - (a) any relative of his or of his wife who is incapacitated by old age or infirmity from maintaining himself, or
  - (b) his or his wife's mother who, whether or not incapacitated, is either widowed, or living apart from her husband, or a single woman in consequence of dissolution or annulment of marriage.
- (7) If the individual mentioned in subsection (6) above is a woman the references in that subsection to the individual's wife shall be construed as references to the individual's husband.

### Textual Amendments

- F29** Words in s. 226(4) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **118(a)**
- F30** Words in s. 226(4) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **118(b)**
- F31** S. 226(5) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), Sch. 20 para. 61, **Sch. 41 Pt. V(10)**

## [<sup>F32</sup>226A Private residence relief: cases where relief obtained under section 260

- (1) This section applies where—
  - (a) section 223 applies, or would apart from this section apply, in relation to a gain or part of a gain accruing to an individual or the trustees of a settlement (“the transferor”) on a disposal (the “later disposal”),



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- (b) in computing the chargeable gain which would, apart from section 223, accrue to the transferor on the later disposal, the allowable expenditure would fall to be reduced, and
  - (c) that reduction would to any extent fall to be made in consequence, directly or indirectly, of a claim or claims under section 260 in respect of one or more earlier disposals (whether or not made to the transferor).
- (2) If a claim for relief under section 260 in respect of—
- (a) the earlier disposal, or
  - (b) if there were two or more such disposals, any of them,
- is made on or before the making of the later disposal, section 223 shall not apply in relation to the gain or part of a gain accruing on the later disposal.
- (3) If a claim for relief under section 260 in respect of—
- (a) the earlier disposal, or
  - (b) if there were two or more such disposals, any of them,
- is made after the making of the later disposal and subsection (2) above does not apply, it is to be assumed for the purposes of capital gains tax that section 223 never applied in relation to the gain or part of a gain accruing on the later disposal.
- (4) All such adjustments shall be made, whether by discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to subsection (3) above (notwithstanding any limitation on the time within which any adjustment may be made).
- (5) Where the later disposal is made by the trustees of a settlement, the references in subsections (2) and (3) above to the making of the later disposal shall be read as references to the making of a claim for relief under section 223 in respect of the gain or part of a gain accruing on that disposal.
- (6) If a claim for relief under section 260 in respect of an earlier disposal is revoked, this section shall apply as if the claim had never been made.
- (7) This section is subject to section 226B (exception for maintenance funds for historic buildings).

#### **Textual Amendments**

**F32** Ss. 226A, 226B inserted (with effect in accordance with Sch. 22 paras. 7(3)(4), 8 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 6](#)

#### **226B Exception to section 226A**

- (1) Section 226A shall not apply in relation to a later disposal made by the trustees of a settlement if the trustees have elected that section 691(2) of the Taxes Act (certain income of maintenance funds for historic buildings not to be income of settlor etc) shall have effect in the case of—
- (a) the settlement, or
  - (b) any part of the settlement,
- in relation to each year of assessment in which a relevant earlier disposal is made.

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- (2) In this section “relevant earlier disposal”, in relation to a later disposal, means an earlier disposal in respect of which a claim mentioned in section 226A(1)(c) is made.
- (3) This section is to be construed as one with section 226A.]

#### **Textual Amendments**

**F32** Ss. 226A, 226B inserted (with effect in accordance with Sch. 22 paras. 7(3)(4), 8 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 6](#)

### *Employee share ownership trusts*

#### **227 Conditions for roll-over relief.**

- (1) Relief is available under section 229(1) where each of the 6 conditions set out in subsections (2) to (7) below is fulfilled.
- (2) The first condition is that a person (“the claimant”) makes a disposal of shares, or his interest in shares, to the trustees of a trust which—
- (a) is a qualifying employee share ownership trust at the time of the disposal, and
  - (b) was established by a company (“the founding company”) which immediately after the disposal is a trading company or the holding company of a trading group.
- (3) The second condition is that the shares—
- (a) are shares in the founding company,
  - (b) form part of the ordinary share capital of the company,
  - (c) are fully paid up,
  - (d) are not redeemable, and
  - (e) are not subject to any restrictions other than restrictions which attach to all shares of the same class or a restriction authorised by paragraph 7(2) of Schedule 5 to the <sup>M1</sup>Finance Act 1989.
- (4) The third condition is that, at any time in the entitlement period, the trustees—
- (a) are beneficially entitled to not less than 10 per cent. of the ordinary share capital of the founding company,
  - (b) are beneficially entitled to not less than 10 per cent. of any profits available for distribution to equity holders of the founding company, and
  - (c) would be beneficially entitled to not less than 10 per cent. of any assets of the founding company available for distribution to its equity holders on a winding-up.
- (5) The fourth condition is that the claimant obtains consideration for the disposal and, at any time in the acquisition period, all the amount or value of the consideration is applied by him in making an acquisition of assets or an interest in assets (“replacement assets”) which—
- (a) are, immediately after the time of the acquisition, chargeable assets in relation to the claimant, and

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- (b) are not shares in, or debentures issued by, the founding company or a company which is (at the time of the acquisition) in the same group as the founding company;  
but the preceding provisions of this subsection shall have effect without the words “, at any time in the acquisition period,” if the acquisition is made pursuant to an unconditional contract entered into in the acquisition period.
- (6) The fifth condition is that, at all times in the proscribed period, there are no unauthorised arrangements under which the claimant or a person connected with him may be entitled to acquire any of the shares, or an interest in or right deriving from any of the shares, which are the subject of the disposal by the claimant.
- (7) The sixth condition is that no chargeable event occurs in relation to the trustees in—
  - (a) the chargeable period in which the claimant makes the disposal,
  - (b) the chargeable period in which the claimant makes the acquisition, or
  - (c) any chargeable period falling after that mentioned in paragraph (a) above and before that mentioned in paragraph (b) above.

#### Marginal Citations

M1 1989 c. 26.

## 228 Conditions for relief: supplementary.

- (1) This section applies for the purposes of section 227.
- (2) The entitlement period is the period beginning with the disposal and ending on the expiry of 12 months beginning with the date of the disposal.
- (3) The acquisition period is the period beginning with the disposal and ending on the expiry of 6 months beginning with—
  - (a) the date of the disposal, or
  - (b) if later, the date on which the third condition (set out in section 227(4)) first becomes fulfilled.
- (4) The proscribed period is the period beginning with the disposal, and ending on—
  - (a) the date of the acquisition, or
  - (b) if later, the date on which the third condition (set out in section 227(4)) first becomes fulfilled.
- (5) All arrangements are unauthorised unless—
  - (a) they arise wholly from a restriction authorised by paragraph 7(2) of Schedule 5 to the <sup>M2</sup>Finance Act 1989, or
  - (b) they only allow one or both of the following as regards shares, interests or rights, namely, acquisition by a beneficiary under the trust and appropriation under an approved profit sharing scheme.
- (6) An asset is a chargeable asset in relation to the claimant at a particular time if, were the asset to be disposed of at that time, any gain accruing to him on the disposal would be a chargeable gain, and either—
  - (a) at that time he is resident or ordinarily resident in the United Kingdom, or

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- (b) he would be chargeable to capital gains tax under section 10(1) in respect of the gain, or it would form part of his chargeable profits for corporation tax purposes by virtue of section [F33 10B],
- unless (were he to dispose of the asset at that time) the claimant would fall to be regarded for the purposes of any double taxation relief arrangements as not liable in the United Kingdom to tax on any gains accruing to him on the disposal.
- (7) The question whether a trust is at a particular time a qualifying employee share ownership trust shall be determined in accordance with Schedule 5 to the <sup>M3</sup>Finance Act 1989; and “chargeable event” in relation to trustees has the meaning given by section 69 of that Act.
- (8) The expressions “holding company”, “trading company” and “trading group” have the meanings given by [F34 paragraph 22 of Schedule A1]; and “group” (except in the expression “trading group”) shall be construed in accordance with section 170.
- (9) “Ordinary share capital” in relation to the founding company means all the issued share capital (by whatever name called) of the company, other than capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company.
- (10) Schedule 18 to the Taxes Act (group relief: equity holders and profits or assets available for distribution) shall apply for the purposes of section 227(4) as if—
- (a) the trustees were a company,
  - (b) the references to section 413(7) <sup>F35</sup>... of that Act were references to section 227(4),
  - (c) the reference in paragraph 7(1)(a) to section 413(7) of that Act were a reference to section 227(4), and
  - (d) paragraph 7(1)(b) were omitted.

#### Textual Amendments

- F33** Word in s. 228(6)(b) substituted (with effect in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 27 para. 2\(3\)](#)
- F34** Words in s. 228(8) substituted (with effect in relation to the year 2003-04 and subsequent years of assessment in accordance with s. 140(6) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 140\(5\)\(a\)](#)
- F35** Words in s. 228(10)(b) repealed (with effect in accordance with Sch. 40 Pt. II(11) Note 2 of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 40 Pt. II\(11\)](#)

#### Marginal Citations

- M2** [1989 c. 26.](#)
- M3** [1989 c. 26.](#)

## 229 The relief.

- (1) In a case where relief is available under this subsection the claimant shall, on making a claim in the period of 2 years beginning with the acquisition, be treated for the purposes of this Act—
- (a) as if the consideration for the disposal were (if otherwise of a greater amount or value) of such amount as would secure that on the disposal neither a gain nor a loss accrues to him, and

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- (b) as if the amount or value of the consideration for the acquisition were reduced by the excess of the amount or value of the actual consideration for the disposal over the amount of the consideration which the claimant is treated as receiving under paragraph (a) above.
- (2) Relief is available under subsection (3) below where—
- (a) relief would be available under subsection (1) above but for the fact that part only of the amount or value mentioned in section 227(5) is applied as there mentioned, and
  - (b) all the amount or value so mentioned except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal is so applied.
- (3) In a case where relief is available under this subsection the claimant shall, on making a claim in the period of 2 years beginning with the acquisition, be treated for the purposes of this Act—
- (a) as if the amount of the gain accruing on the disposal were reduced to the amount of the part mentioned in subsection (2)(b) above, and
  - (b) as if the amount or value of the consideration for the acquisition were reduced by the amount by which the gain is reduced under paragraph (a) above.
- (4) Nothing in subsection (1) or (3) above shall affect the treatment for the purposes of this Act of the other party to the disposal or of the other party to the acquisition.
- (5) The provisions of this Act fixing the amount of the consideration deemed to be given for a disposal or acquisition shall be applied before the preceding provisions of this section are applied.

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

- C1 S. 229(1)(3) excluded (with effect in relation to a disposal of shares, or an interest in shares, made on or after 6.4.2001) by [Finance Act 2000 \(c. 17\), s. 54](#)

**230 Dwelling-houses: special provision.**

- (1) Subsection (2) below applies where—
- (a) a claim is made under section 229,
  - (b) immediately after the time of the acquisition mentioned in section 227(5) and apart from this section, any replacement asset was a chargeable asset in relation to the claimant,
  - (c) the asset is a dwelling-house or part of a dwelling-house or land, and
  - (d) there was a time in the period beginning with the acquisition and ending with the time when section 229(1) or (3) falls to be applied such that, if the asset (or an interest in it) were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse [<sup>F36</sup>or civil partner].
- (2) In such a case the asset shall be treated as if, immediately after the time of the acquisition mentioned in section 227(5), it was not a chargeable asset in relation to the claimant.
- (3) Subsection (4) below applies where—

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- (a) the provisions of section 229(1) or (3) have been applied,
  - (b) any replacement asset which, immediately after the time of the acquisition mentioned in section 227(5) and apart from this section, was a chargeable asset in relation to the claimant consists of a dwelling-house or part of a dwelling-house or land, and
  - (c) there is a time after section 229(1) or (3) has been applied such that, if the asset (or an interest in it) were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse [<sup>F37</sup>or civil partner].
- (4) In such a case—
- (a) the asset shall be treated as if, immediately after the time of the acquisition mentioned in section 227(5), it was not a chargeable asset in relation to the claimant and adjustments shall be made accordingly, but
  - (b) any gain treated as accruing in consequence of the application of paragraph (a) above shall be treated as accruing at the time mentioned in subsection (3)(c) above or, if there is more than one such time, at the earliest of them.
- (5) Subsection (6) below applies where—
- (a) a claim is made under section 229,
  - (b) immediately after the time of the acquisition mentioned in section 227(5) and apart from this section, any replacement asset was a chargeable asset in relation to the claimant,
  - (c) the asset was an option to acquire (or to acquire an interest in) a dwelling-house or part of a dwelling-house or land,
  - (d) the option has been exercised, and
  - (e) there was a time in the period beginning with the exercise of the option and ending with the time when section 229(1) or (3) falls to be applied such that, if the asset acquired on exercise of the option were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse [<sup>F38</sup>or civil partner].
- (6) In such a case the option shall be treated as if, immediately after the time of the acquisition mentioned in section 227(5), it was not a chargeable asset in relation to the claimant.
- (7) Subsection (8) below applies where—
- (a) the provisions of section 229(1) or (3) have been applied,
  - (b) any replacement asset which, immediately after the time of the acquisition mentioned in section 227(5) and apart from this section, was a chargeable asset in relation to the claimant consisted of an option to acquire (or to acquire an interest in) a dwelling-house or part of a dwelling-house or land,
  - (c) the option has been exercised, and
  - (d) there is a time after section 229(1) or (3) has been applied such that, if the asset acquired on exercise of the option were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse [<sup>F39</sup>or civil partner].
- (8) In such a case—
- (a) the option shall be treated as if, immediately after the time of the acquisition mentioned in section 227(5), it was not a chargeable asset in relation to the claimant and adjustments shall be made accordingly, but

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- (b) any gain treated as accruing in consequence of the application of paragraph (a) above shall be treated as accruing at the time mentioned in subsection (7)(d) above or, if there is more than one such time, at the earliest of them.
- (9) References in this section to an individual include references to a person entitled to occupy under the terms of a settlement.

#### Textual Amendments

- F36** Words in s. 230(1)(d) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **119**
- F37** Words in s. 230(3)(c) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **119**
- F38** Words in s. 230(5)(e) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **119**
- F39** Words in s. 230(7)(d) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **119**

### 231 Shares: special provision.

- (1) Subsection (2) below applies where—
- (a) a claim is made under section 229,
  - (b) immediately after the time of the acquisition mentioned in section 227(5) and apart from this section, any replacement asset was a chargeable asset in relation to the claimant,
  - (c) the asset consists of shares, and
  - (d) in the period beginning with the acquisition and ending when section 229(1) or (3) falls to be applied relief is claimed under Chapter III of Part VII of the Taxes Act <sup>F40</sup>... in respect of the asset.
- (2) In such a case the asset shall be treated as if, immediately after the time of the acquisition mentioned in section 227(5), it was not a chargeable asset in relation to the claimant.
- (3) Subsection (4) below applies where—
- (a) the provisions of section 229(1) or (3) have been applied,
  - (b) any replacement asset which, immediately after the time of the acquisition mentioned in section 227(5) and apart from this section, was a chargeable asset in relation to the claimant consists of shares, and
  - (c) after section 229(1) or (3) has been applied relief is claimed under Chapter III of Part VII of the Taxes Act in respect of the asset.
- (4) In such a case the asset shall be treated as if, immediately after the time of the acquisition mentioned in section 227(5), it was not a chargeable asset in relation to the claimant and adjustments shall be made accordingly.
- (5) Subsection (4) above shall also apply where section 33(1) or (3) of the <sup>M4</sup>Finance Act 1990 has applied and the claimant acquired the replacement asset in a chargeable period beginning before 6th April 1992.

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#### Textual Amendments

**F40** Words in s. 231(1)(d) repealed (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 34](#), [Sch. 26 Pt. V\(17\)](#)

#### Marginal Citations

**M4** [1990 c. 29](#).

### 232 Chargeable event when replacement assets owned.

- (1) Subsection (3) below applies where—
  - (a) the provisions of section 229(1) or (3) are applied,
  - (b) a chargeable event occurs in relation to the trustees on or after the date on which the disposal is made (and whether the event occurs before or after the provisions are applied),
  - (c) the claimant was neither an individual who died before the chargeable event occurs nor trustees of a settlement which ceased to exist before the chargeable event occurs, and
  - (d) the condition set out below is fulfilled.
- (2) The condition is that, at the time the chargeable event occurs, the claimant or a person then connected with him is beneficially entitled to all the replacement assets.
- (3) In a case where this subsection applies, the claimant or connected person (as the case may be) shall be deemed for all purposes of this Act—
  - (a) to have disposed of all the replacement assets immediately before the time when the chargeable event occurs, and
  - (b) immediately to have reacquired them, at the relevant value.
- (4) The relevant value is such value as secures on the deemed disposal a chargeable gain equal to—
  - (a) the amount by which the amount or value of the consideration mentioned in section 229(1)(b) was treated as reduced by virtue of that provision (where it applied), or
  - (b) the amount by which the amount or value of the consideration mentioned in section 229(3)(b) was treated as reduced by virtue of that provision (where it applied).
- (5) In a case where subsection (3) above would apply if “all” read “any of” in subsection (2) above, subsection (3) shall nevertheless apply, but as if—
  - (a) in subsection (3)(a) “all the replacement assets” read “the replacement assets concerned”, and
  - (b) the relevant value were reduced to whatever value is just and reasonable.
- (6) Subsection (7) below applies where—
  - (a) subsection (3) above applies (whether or not by virtue of subsection (5) above), and
  - (b) before the time when the chargeable event occurs anything has happened as regards any of the replacement assets such that it can be said that a



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charge has accrued in respect of any of the gain carried forward by virtue of section 229(1) or (3).

- (7) If in such a case it is just and reasonable for subsection (3) above to apply as follows, it shall apply as if—
- (a) the relevant value were reduced (or further reduced) to whatever value is just and reasonable, or
  - (b) the relevant value were such value as secures that on the deemed disposal neither a gain nor a loss accrues (if that is just and reasonable);
- but paragraph (a) above shall not apply so as to reduce the relevant value below that mentioned in paragraph (b) above.
- (8) For the purposes of subsection (6)(b) above the gain carried forward by virtue of section 229(1) or (3) is the gain represented by the amount which by virtue of either of those provisions falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of replacement assets (that is, the amount found under subsection (4)(a) or (b) above, as the case may be).
- (9) In this section “chargeable event” in relation to trustees has the meaning given by section 69 of the <sup>M5</sup>Finance Act 1989.

#### Marginal Citations

M5 1989 c. 26.

### 233 Chargeable event when replacement property owned.

- (1) Subsection (3) below applies where—
- (a) paragraphs (a) to (c) of section 232(1) are fulfilled, and
  - (b) the condition set out below is fulfilled.
- (2) The condition is that—
- (a) before the time when the chargeable event occurs, all the gain carried forward by virtue of section 229(1) or (3) was in turn carried forward from all the replacement assets to other property on a replacement of business assets, and
  - (b) at the time the chargeable event occurs, the claimant or a person then connected with him is beneficially entitled to all the property.
- (3) In a case where this subsection applies, the claimant or connected person (as the case may be) shall be deemed for all purposes of this Act—
- (a) to have disposed of all the property immediately before the time when the chargeable event occurs, and
  - (b) immediately to have reacquired it,  
at the relevant value.
- (4) The relevant value is such value as secures on the deemed disposal a chargeable gain equal to—
- (a) the amount by which the amount or value of the consideration mentioned in section 229(1)(b) was treated as reduced by virtue of that provision (where it applied), or

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- (b) the amount by which the amount or value of the consideration mentioned in section 229(3)(b) was treated as reduced by virtue of that provision (where it applied).
- (5) In a case where subsection (3) above would apply if “all the” in subsection (2) above (in one or more places) read “any of the”, subsection (3) shall nevertheless apply, but as if—
- (a) in subsection (3)(a) “all the property” read “ the property concerned ”, and
  - (b) the relevant value were reduced to whatever value is just and reasonable.
- (6) Subsection (7) below applies where—
- (a) subsection (3) above applies (whether or not by virtue of subsection (5) above), and
  - (b) before the time when the chargeable event occurs anything has happened as regards any of the replacement assets, or any other property, such that it can be said that a charge has accrued in respect of any of the gain carried forward by virtue of section 229(1) or (3).
- (7) If in such a case it is just and reasonable for subsection (3) above to apply as follows, it shall apply as if—
- (a) the relevant value were reduced (or further reduced) to whatever value is just and reasonable, or
  - (b) the relevant value were such value as secures that on the deemed disposal neither a gain nor a loss accrues (if that is just and reasonable);
- but paragraph (a) above shall not apply so as to reduce the relevant value below that mentioned in paragraph (b) above.
- (8) For the purposes of subsections (2) and (6)(b) above the gain carried forward by virtue of section 229(1) or (3) is the gain represented by the amount which by virtue of either of those provisions falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of replacement assets (that is, the amount found under subsection (4)(a) or (b) above, as the case may be).
- (9) For the purposes of subsection (2) above a gain is carried forward from assets to other property on a replacement of business assets if, by one or more claims under sections 152 to 158, the chargeable gain accruing on a disposal of the assets is reduced, and as a result an amount falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of the other property.

### **234 Chargeable events when bonds owned.**

- (1) Subsection (3) below applies where—
- (a) paragraphs (a) to (c) of section 232(1) are fulfilled, and
  - (b) the condition set out below is fulfilled.
- (2) The condition is that—
- (a) all the replacement assets were shares (new shares) in a company or companies,
  - (b) there has been a transaction to which section 116(10) applies and as regards which all the new shares constitute the old asset and qualifying corporate bonds constitute the new asset, and

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- (c) at the time the chargeable event occurs, the claimant or a person then connected with him is beneficially entitled to all the bonds.
- (3) In a case where this subsection applies, a chargeable gain shall be deemed to have accrued to the claimant or connected person (as the case may be); and the gain shall be deemed to have accrued immediately before the time when the chargeable event occurs and to be of an amount equal to the relevant amount.
- (4) The relevant amount is an amount equal to the lesser of—
- the first amount, and
  - the second amount.
- (5) The first amount is—
- the amount of the chargeable gain that would be deemed to accrue under 116(10)(b) if there were a disposal of all the bonds at the time the chargeable event occurs, or
  - nil, if an allowable loss would be so deemed to accrue if there were such a disposal.
- (6) The second amount is an amount equal to—
- the amount by which the amount or value of the consideration mentioned in section 229(1)(b) was treated as reduced by virtue of that provision (where it applied), or
  - the amount by which the amount or value of the consideration mentioned in section 229(3)(b) was treated as reduced by virtue of that provision (where it applied).
- (7) In a case where subsection (3) above would apply if “all the” in subsection (2) above (in one or more places) read “any of the”, subsection (3) shall nevertheless apply, but as if—
- in subsection (5) above “all the bonds” read “the bonds concerned”,
  - the second amount were reduced to whatever amount is just and reasonable, and
  - the relevant amount were reduced accordingly.
- (8) Subsection (9) below applies where—
- subsection (3) above applies (whether or not by virtue of subsection (7) above), and
  - before the time when the chargeable event occurs anything has happened as regards any of the new shares, or any of the bonds, such that it can be said that a charge has accrued in respect of any of the gain carried forward by virtue of section 229(1) or (3).
- (9) If in such a case it is just and reasonable for subsection (3) above to apply as follows, it shall apply as if—
- the second amount were reduced (or further reduced) to whatever amount is just and reasonable, and
  - the relevant amount were reduced (or further reduced) accordingly (if the second amount is less than the first amount),
- but nothing in this subsection shall have the effect of reducing the second amount below nil.

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- (10) For the purposes of subsection (8)(b) above the gain carried forward by virtue of section 229(1) or (3) is the gain represented by the amount which by virtue of either of those provisions falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of replacement assets (that is, the amount found under subsection (6)(a) or (b) above, as the case may be).

### **235 Information.**

- (1) An inspector may by notice require a return to be made by the trustees of an employee share ownership trust in a case where—
- (a) a disposal of shares, or an interest in shares, has at any time been made to them, and
  - (b) a claim is made under section 229(1) or (3).
- (2) Where he requires such a return to be made the inspector shall specify the information to be contained in it.
- (3) The information which may be specified is information the inspector needs for the purposes of sections 232 to 234 and may include information about—
- (a) expenditure incurred by the trustees;
  - (b) assets acquired by them;
  - (c) transfers of assets made by them.
- (4) The information which may be required under subsection (3)(a) above may include the purpose of the expenditure and the persons receiving any sums.
- (5) The information which may be required under subsection (3)(b) above may include the persons from whom the assets were acquired and the consideration furnished by the trustees.
- (6) The information which may be required under subsection (3)(c) above may include the persons to whom assets were transferred and the consideration furnished by them.
- (7) In a case where section 229(1) or (3) has been applied, the inspector shall send to the trustees of the employee share ownership trust concerned a certificate stating—
- (a) that the provision concerned has been applied, and
  - (b) the effect of the provision on the consideration for the disposal or on the amount of the gain accruing on the disposal (as the case may be).
- (8) For the purposes of this section, the question whether a trust is an employee share ownership trust shall be determined in accordance with Schedule 5 to the <sup>M6</sup>Finance Act 1989.

#### **Marginal Citations**

**M6** 1989 c. 26.

### **236 Prevention of double charge.**

- (1) Where a charge can be said to accrue by virtue of section 232 or 233 in respect of any of the gain carried forward by virtue of section 229(1) or (3), so much of the gain charged shall not be capable of being carried forward (from assets to other property

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or from property to other property) under sections 152 to 158 on a replacement of business assets.

- (2) For the purpose of construing subsection (1) above—
- (a) what of the gain has been charged shall be found in accordance with what is just and reasonable;
  - (b) section 233(8) and (9) shall apply.
- (3) In a case where—
- (a) section 234 applies in the case of bonds,
  - (b) subsequently a disposal of the bonds occurs as mentioned in section 116(10)(b), and
  - (c) a chargeable gain is deemed to accrue under section 116(10)(b),
- the chargeable gain shall be reduced by the relevant amount found under section 234 or (if the amount exceeds the gain) shall be reduced to nil.
- (4) The relevant amount shall be apportioned where the subsequent disposal is of some of the bonds mentioned in subsection (3)(a) above; and subsection (3) shall apply accordingly.

#### *[<sup>F41</sup>[<sup>F42</sup>Share incentive] plans*

##### **Textual Amendments**

- F41** S. 236A and cross-heading inserted (28.7.2000) by [Finance Act 2000 \(c. 17\), s. 48\(1\)](#)
- F42** Words in s. 236A cross-heading substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 214](#) (with [Sch. 7](#))

#### **236A Relief for transfers to [<sup>F43</sup>share incentive] plans**

Schedule 7C (which makes provision for roll-over relief where shares are transferred to an approved [<sup>F43</sup>share incentive] plan) shall have effect.]

##### **Textual Amendments**

- F43** Words in s. 236A substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 214](#) (with [Sch. 7](#))

*Superannuation funds, profit sharing schemes, employee trusts etc.*

#### **237 Superannuation funds, annuities and annual payments.**

No chargeable gain shall accrue to any person on the disposal of a right to, or to any part of—

- (a) any allowance, annuity or capital sum payable out of any superannuation fund, or under any superannuation scheme, established solely or mainly for persons employed in a profession, trade, undertaking or employment, and their dependants,

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- (b) an annuity granted otherwise than under a contract for a deferred annuity by a company as part of its business of granting annuities on human life, whether or not including instalments of capital, or an annuity granted or deemed to be granted under the <sup>M7</sup>Government Annuities Act 1929, or
- (c) annual payments which are due under a covenant made by any person and which are not secured on any property.

#### Marginal Citations

M7 1929 c. 29.

### [<sup>F44</sup>237A Share option schemes: release and replacement of options.

- (1) This section applies in any case where a right to acquire shares in a body corporate (“the old right”) which was obtained by an individual by reason of his office or employment as a director or employee of that or any other body corporate is released in whole or in part for a consideration which consists of or includes the grant to that individual of another right (“the new right”) to acquire shares in that or any other body corporate.
- (2) As respects the person to whom the new right is granted—
  - (a) without prejudice to subsection (1) above, the new right shall not be regarded for the purposes of capital gains tax as consideration for the release of the old right;
  - (b) the amount or value of the consideration given by him or on his behalf for the acquisition of the new right shall be taken for the purposes of section 38(1) to be the amount or value of the consideration given by him or on his behalf for the old right; and
  - (c) any consideration paid for the acquisition of the new right shall be taken to be expenditure falling within section 38(1)(b).
- (3) As respects the grantor of the new right, in determining for the purposes of this Act the amount or value of the consideration received for the new right, the release of the old right shall be disregarded.]

#### Textual Amendments

**F44** S. 237A inserted (with effect in accordance with s. 112(3) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 112\(1\)](#)

### 238 Approved profit sharing and share option schemes.

- (1) Notwithstanding anything in a profit sharing scheme approved under Schedule 9 of the Taxes Act or in paragraph 2(2) of that Schedule or in the trust instrument relating to that scheme, for the purposes of capital gains tax a person who is a participant in relation to that scheme shall be treated as absolutely entitled to his shares as against the trustees of the scheme.
- (2) For the purposes of capital gains tax—
  - (a) no deduction shall be made from the consideration for the disposal of any shares by reason only that an amount determined under section 186 or 187

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of or Schedule 9 or 10 to the Taxes Act [<sup>F45</sup>counts as employment income (or was chargeable to income tax for the year 2002-03 or an earlier year of assessment] under section 186(3) or (4) of that Act;

- (b) any charge to income tax by virtue of section 186(3) of that Act shall be disregarded in determining whether a distribution is a capital distribution within the meaning of section 122(5)(b);
- (c) nothing in any provision of section 186 or 187 of or Schedule 9 or 10 to that Act with respect to—
  - (i) the order in which any of a participant’s shares are to be treated as disposed of for the purposes of those provisions as they have effect in relation to profit sharing schemes, or
  - (ii) the shares in relation to which an event is to be treated as occurring for any such purpose,shall affect the rules applicable to the computation of a gain accruing on a part disposal of a holding of shares or other securities which were acquired at different times; and
- (d) a gain accruing on an appropriation of shares to which section 186(11) of that Act applies shall not be a chargeable gain.

(3) In this section “participant” and “the trust instrument” have the meanings given by section 187 of the Taxes Act.

<sup>F46</sup>(4) . . . . .

**Textual Amendments**

- F45** Words in s. 238(2)(a) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 6 para. 215](#) (with [Sch. 7](#))
- F46** S. 238(4) repealed (with effect in accordance with s. 112(2)(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 112(2), [Sch. 41 Pt. V\(5\)](#)

[<sup>F47</sup>**238A** **Approved share schemes and share incentives**

- (1) Schedule 7D (approved share schemes and share incentives) shall have effect.
- (2) Schedule 7D relates—
  - (a) in Part 1, to approved share incentive plans (SIPs) (see section 488 of ITEPA 2003),
  - (b) in Part 2, to approved SAYE option schemes (see section 516 of that Act),
  - (c) in Part 3, to approved CSOP schemes (CSOPs) (see section 521 of that Act), and
  - (d) in Part 4, to enterprise management incentives (see section 527 of that Act).]

**Textual Amendments**

- F47** S. 238A inserted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 6 para. 216](#) (with [Sch. 7](#))

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## 239 Employee trusts.

(1) Where—

- (a) a close company disposes of an asset to trustees in circumstances such that the disposal is a disposition which by virtue of section 13 of the <sup>M8</sup>Inheritance Tax Act 1984 (employee trusts) is not a transfer of value for the purposes of inheritance tax, or
- (b) an individual disposes of an asset to trustees in circumstances such that the disposal is an exempt transfer by virtue of section 28 of that Act (employee trusts: inheritance tax),

this Act shall have effect in relation to the disposal in accordance with subsections (2) and (3) below.

(2) Section 17(1) shall not apply to the disposal; and if the disposal is by way of gift or is for a consideration not exceeding the sums allowable as a deduction under section 38—

- (a) the disposal, and the acquisition by the trustees, shall be treated for the purposes of this Act as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal, and
- (b) where the trustees dispose of the asset, its acquisition by the company or individual shall be treated as its acquisition by the trustees.

Paragraph (b) above also applies where section 149(1) of the 1979 Act applied on the disposal of an asset to trustees who have not disposed of it before the coming into force of this section.

(3) Where the disposal is by a close company, section 125(1) shall apply to the disposal as if for the reference to market value there were substituted a reference to market value or the sums allowable as a deduction under section 38, whichever is the less.

(4) Subject to subsection (5) below, this Act shall also have effect in accordance with subsection (2) above in relation to any disposal made by a company other than a close company if—

- (a) the disposal is made to trustees otherwise than under a bargain made at arm's length, and
- (b) the property disposed of is to be held by them on trusts of the description specified in section 86(1) of the <sup>M9</sup>Inheritance Tax Act 1984 (that is to say, those in relation to which the said section 13 of that Act has effect) and the persons for whose benefit the trusts permit the property to be applied include all or most of either—
  - (i) the persons employed by or holding office with the company, or
  - (ii) the persons employed by or holding office with the company or any one or more subsidiaries of the company.

(5) Subsection (4) above does not apply if the trusts permit any of the property to be applied at any time (whether during any such period as is referred to in the said section 86(1) or later) for the benefit of—

- (a) a person who is a participator in the company (“the donor company”), or
- (b) any other person who is a participator in any other company that has made a disposal of property to be held on the same trusts as the property disposed of by the donor company, being a disposal in relation to which this Act has had effect in accordance with subsection (2) above, or



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- (c) any other person who has been a participator in the donor company or any such company as is mentioned in paragraph (b) above at any time after, or during the 10 years before, the disposal made by that company, or
  - (d) any person who is connected with a person within paragraph (a), (b) or (c) above.
- (6) The participators in a company who are referred to in subsection (5) above do not include any participator who—
- (a) is not beneficially entitled to, or to rights entitling him to acquire, 5 per cent. or more of, or of any class of the shares comprised in, its issued share capital, and
  - (b) on a winding-up of the company would not be entitled to 5 per cent. or more of its assets;
- and in determining whether the trusts permit property to be applied as mentioned in that subsection, no account shall be taken—
- (i) of any power to make a payment which is the income of any person for any of the purposes of income tax, or would be the income for any of those purposes of a person not resident in the United Kingdom if he were so resident, or
  - (ii) if the trusts are those of a profit sharing scheme approved under Schedule 9 to the Taxes Act of any power to appropriate shares in pursuance of the scheme.
- (7) In subsection (4) above “subsidiary” has the meaning given by section 736 of the <sup>M10</sup>Companies Act 1985 and in subsections (5) and (6) above “participator” has the meaning given in section 417(1) of the Taxes Act, except that it does not include a loan creditor.
- (8) In this section “close company” includes a company which, if resident in the United Kingdom, would be a close company as defined in section 288.

#### Marginal Citations

- M8** 1984 c. 51.
- M9** 1984 c. 51.
- M10** 1985 c. 6.

#### *[<sup>F48</sup>Retirement benefits schemes*

#### Textual Amendments

- F48** S. 239A and cross-heading inserted (with application in accordance with s. 61(3) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 61\(2\)](#)

### **239A Cessation of approval of certain schemes.**

- (1) This section applies where tax is charged in accordance with section 591C of the Taxes Act (tax on certain retirement benefits schemes whose approval ceases to have effect).
- (2) For the purposes of this Act the assets which at the relevant time are held for the purposes of the scheme—

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- (a) shall be deemed to be acquired at that time for a consideration equal to the amount on which tax is charged by virtue of section 591C(2) of the Taxes Act by the person who would be chargeable in respect of a chargeable gain accruing on a disposal of the assets at that time; but
  - (b) shall not be deemed to be disposed of by any person at that time;
- and in this subsection “the relevant time” means the time immediately before the date of the cessation of the approval of the scheme.
- (3) Expressions used in subsection (2) above and in section 591C of the Taxes Act have the same meanings in that subsection as in that section.]

*[<sup>F49</sup>Personal pension schemes*

**Textual Amendments**

**F49** S. 239B and cross-heading inserted (with effect in accordance with s. 95(4) of the amending Act) by Finance Act 1998 (c. 36), s. 95(3)

**239B Withdrawal of approval of approved arrangements.**

- (1) This section applies where tax is charged in accordance with section 650A of the Taxes Act (tax charged on the withdrawal of the Board’s approval in relation to approved personal pension arrangements).
- (2) For the purposes of this Act the appropriate part of the assets which at the relevant time are held for the purposes of the relevant scheme—
  - (a) shall be deemed to be acquired at that time for a consideration equal to the amount on which tax is charged by virtue of section 650A(2) of the Taxes Act; but
  - (b) shall not be deemed to be disposed of by any person at that time.
- (3) The person who shall be deemed in accordance with subsection (2)(a) above to have acquired the appropriate part of the assets shall be the person who would be chargeable in respect of a chargeable gain accruing on a disposal of the assets at the relevant time.
- (4) In this section—
  - “the appropriate part” and “the relevant time” have the meanings given by subsection (3) of section 650A of the Taxes Act for the purposes of subsection (2) of that section; and
  - “the relevant scheme” has the same meaning as in that section.]

*Leases*

**240 Leases of land and other assets.**

Schedule 8 shall have effect as respects leases of land and, to the extent specified in paragraph 9 of that Schedule, as respects leases of property other than land.

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## 241 Furnished holiday lettings.

(1) The following provisions of this section shall have effect with respect to the treatment for the purposes of tax on chargeable gains of the commercial letting of furnished holiday accommodation in the United Kingdom.

[<sup>F50</sup>(2) For the purposes of this section as it applies to capital gains tax the “commercial letting of furnished holiday accommodation” has the same meaning as it has for the purposes of Chapter 6 of Part 3 of ITTOIA 2005.

For the purposes of this section as it applies to corporation tax in respect of chargeable gains the “commercial letting of furnished holiday accommodation” has the meaning given by section 504 of the Taxes Act.]

(3) [<sup>F51</sup>Subject to subsections (4) to (8) below, for the purposes of the provisions mentioned in subsection (3A) below—]

[<sup>F52</sup>(a) any [<sup>F53</sup>UK property business (within the meaning of the Taxes Act), or any Schedule A business (within the meaning of that Act), which consists of, or so far as it consists of, the commercial letting of furnished holiday accommodation] shall be treated as a trade, and]

(b) all such lettings made by a particular person or partnership or body of persons shall be treated as one trade.

[<sup>F54</sup>(3A) The provisions referred to in subsection (3) above are—

sections 152 to 157 (roll-over relief on replacement of business asset),  
section 165 (gifts relief),  
Section 253 (relief for loans to traders),  
Schedule A1 (taper relief),  
Schedule 6 (retirement relief etc), and  
Schedule 7AC (exemptions for disposals by companies with substantial shareholding).]

(4) Subject to subsection (5) below, for the purposes of the [<sup>F55</sup>provisions mentioned in subsection (3A)] above as they apply by virtue of this section, where in any chargeable period a person makes a commercial letting of furnished holiday accommodation—

(a) the accommodation shall be taken to be used in that period only for the purposes of the trade of making such lettings; and

(b) that trade shall be taken to be carried on throughout that period.

(5) Subsection (4) above does not apply to any part of a chargeable period during which the accommodation is neither let commercially nor available to be so let unless it is prevented from being so let or available by any works of construction or repair.

(6) Where—

(a) a gain to which section 222 applies accrues to any individual on the disposal of an asset; and

(b) by virtue of subsection (3) above the amount or value of the consideration for the acquisition of the asset is treated as reduced under section 152 or 153,

the gain to which section 222 applies shall be reduced by the amount of the reduction mentioned in paragraph (b) above.

(7) Where there is a letting of accommodation only part of which is holiday accommodation such apportionments shall be made for the purposes of this section as [<sup>F56</sup>are] just and reasonable.

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- (8) Where a person has been charged to tax in respect of chargeable gains otherwise than in accordance with the provisions of this section, such assessment, reduction or discharge of an assessment or, where a claim for repayment is made, such repayment, shall be made as may be necessary to give effect to those provisions.

#### Textual Amendments

- F50** S. 241(2) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 441(2)** (with Sch. 2)
- F51** Words in s. 241(3) substituted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 8 para. 3(2)**
- F52** S. 241(3)(a) substituted (with effect in accordance with s. 38 of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 5 para. 62** (with Sch. 5 para. 73)
- F53** Words in s. 241(3)(a) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 441(3)** (with Sch. 2)
- F54** S. 241(3A) inserted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 8 para. 3(3)**
- F55** Words in s. 241(4) substituted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 8 para. 3(4)**
- F56** Word in s. 241(7) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 20 para. 62**

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

- C2** S. 241(3) modified (with effect in accordance with s. 39(4)(a)(5) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), s. 39(3), **Sch. 6 para. 36**

### *Part disposals*

#### 242 Small part disposals.

- (1) This section applies to a transfer of land forming part only of a holding of land, where—
- (a) the amount or value of the consideration for the transfer does not exceed one-fifth of the market value of the holding as it subsisted immediately before the transfer, and
  - (b) the transfer is not one which, by virtue of section 58 or 171(1), is treated as giving rise to neither a gain nor a loss.

- (2) Subject to subsection (3) below, if the transferor so claims, the transfer shall not be treated for the purposes of this Act as a disposal, but all sums which, if it had been so treated, would have been brought into account as consideration for that disposal in the computation of the gain shall be deducted from any expenditure allowable under Chapter III of Part II as a deduction in computing a gain on any subsequent disposal of the holding.

[<sup>F57</sup>(2A) A claim under subsection (2) above shall be made—

- (a) for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the transfer is made;
- (b) for the purposes of corporation tax, within 2 years after the end of the accounting period in which the transfer is made.]

- (3) This section shall not apply—

- (a) if the amount or value of the consideration for the transfer exceeds £20,000, or

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- (b) where in the year of assessment in which the transfer is made, the transferor made any other disposal of land, if the total amount or value of the consideration for all disposals of land made by the transferor in that year exceeds £20,000.
- (4) No account shall be taken under subsection (3) above of any transfer of land to which section 243 applies.
- (5) In relation to a transfer which is not for full consideration in money or money's worth "the amount or value of the consideration" in this section shall mean the market value of the land transferred.
- (6) For the purposes of this section the holding of land shall comprise only the land in respect of which the expenditure allowable under paragraphs (a) and (b) of section 38(1) would be apportioned under section 42 if the transfer had been treated as a disposal (that is, as a part disposal of the holding).
- (7) In this section references to a holding of land include references to any estate or interest in a holding of land, not being an estate or interest which is a wasting asset, and references to part of a holding shall be construed accordingly.

#### Textual Amendments

**F57** S. 242(2A) inserted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 21 para. 37](#)

### 243 Part disposal to authority with compulsory powers.

- (1) This section applies to a transfer of land forming part only of a holding of land to an authority exercising or having compulsory powers where—
  - (a) the amount or value of the consideration for the transfer, or if the transfer is not for full consideration in money or money's worth, the market value of the land transferred, is small, as compared with the market value of the holding as it subsisted immediately before the transfer, and
  - (b) the transferor had not taken any steps by advertising or otherwise to dispose of any part of the holding or to make his willingness to dispose of it known to the authority or others.
- (2) If the transferor so claims, the transfer shall not be treated for the purposes of this Act as a disposal, but all sums which, if it had been so treated, would have been brought into account as consideration for that disposal in the computation of the gain shall be deducted from any expenditure allowable under Chapter III of Part II as a deduction in computing a gain on any subsequent disposal of the holding.

[<sup>F58</sup>(2A) A claim under subsection (2) above shall be made—

- (a) for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the transfer is made;
- (b) for the purposes of corporation tax, within 2 years after the end of the accounting period in which the transfer is made.]
- (3) For the purposes of this section the holding of land shall comprise only the land in respect of which the expenditure allowable under paragraphs (a) and (b) of

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section 38(1) would be apportioned under section 42 if the transfer had been treated as a disposal (that is, as a part disposal of the holding).

- (4) In this section references to a holding of land include references to an estate or interest in a holding of land, not being an estate or interest which is a wasting asset, and references to part of a holding shall be construed accordingly.
- (5) In this section “authority exercising or having compulsory powers” means, in relation to the land transferred, a person or body of persons acquiring it compulsorily or who has or have been, or could be, authorised to acquire it compulsorily for the purposes for which it is acquired, or for whom another person or body of persons has or have been, or could be, authorised so to acquire it.

#### Textual Amendments

**F58** S. 243(2A) inserted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 38](#)

#### 244 Part disposal: consideration exceeding allowable expenditure.

- (1) The provisions of sections 242(2) and 243(2) shall have effect subject to this section.
- (2) Where the allowable expenditure is less than the consideration for the part disposal (or is nil)—
- (a) the said provisions shall not apply, and
  - (b) if the recipient so elects (and there is any allowable expenditure)—
    - (i) the consideration for the part disposal shall be reduced by the amount of the allowable expenditure, and,
    - (ii) none of that expenditure shall be allowable as a deduction in computing a gain accruing on the occasion of the part disposal or on any subsequent occasion.

In this subsection “allowable expenditure” means expenditure which, immediately before the part disposal, was attributable to the holding of land under paragraphs (a) and (b) of section 38(1).

- [<sup>F59</sup>(3) An election under subsection (2)(b) above shall be made—
- (a) for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the part disposal is made;
  - (b) for the purposes of corporation tax, within 2 years after the end of the accounting period in which the part disposal is made.]

#### Textual Amendments

**F59** S. 244(3) inserted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 39](#)

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### *Compulsory acquisition*

#### **245 Compensation paid on compulsory acquisition.**

- (1) Where land or an interest in or right over land is acquired and the acquisition is, or could have been, made under compulsory powers, then in considering whether, under section 52(4), the purchase price or compensation or other consideration for the acquisition should be apportioned and treated in part as a capital sum within section 22(1)(a), whether as compensation for loss of goodwill or for disturbance or otherwise, or should be apportioned in any other way, the fact that the acquisition is or could have been made compulsorily, and any statutory provision treating the purchase price or compensation or other consideration as exclusively paid in respect of the land itself, shall be disregarded.
- (2) In any case where land or an interest in land is acquired as mentioned in subsection (1) above from any person and the compensation or purchase price includes an amount in respect of severance of the land comprised in the acquisition or sale from other land in which that person is entitled in the same capacity to an interest, or in respect of that other land as being injuriously affected, there shall be deemed for the purposes of this Act to be a part disposal of that other land.

#### **246 Time of disposal and acquisition.**

Where an interest in land is acquired, otherwise than under a contract, by an authority possessing compulsory purchase powers, the time at which the disposal and acquisition is made is the time at which the compensation for the acquisition is agreed or otherwise determined (variations on appeal being disregarded for this purpose)

F60  
... .

#### **Textual Amendments**

**F60** Words in s. 246 repealed (with effect in accordance with s. 121(8) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 141\(4\), Sch. 41 Pt. V\(6\)](#)

#### **247 Roll-over relief on compulsory acquisition.**

- (1) This section applies where—
  - (a) land (“the old land”) is disposed of by any person (“the landowner”) to an authority exercising or having compulsory powers; and
  - (b) the landowner did not take any steps, by advertising or otherwise, to dispose of the old land or to make his willingness to dispose of it known to the authority or others; and
  - (c) the consideration for the disposal is applied by the landowner in acquiring other land (“the new land”) not being land excluded from this paragraph by section 248.
- (2) Subject to section 248, in a case where the whole of the consideration for the disposal was applied as mentioned in subsection (1)(c) above, the landowner, on making a claim as respects the consideration so applied, shall be treated for the purposes of this Act—

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- (a) as if the consideration for the disposal of the old land were (if otherwise of a greater amount or value) of such amount as would secure that on the disposal neither a gain nor a loss accrues to him; and
  - (b) as if the amount or value of the consideration for the acquisition of the new land were reduced by the excess of the amount or value of the actual consideration for the disposal of the old land over the amount of the consideration which he is treated as receiving under paragraph (a) above.
- (3) If part only of the consideration for the disposal of the old land was applied as mentioned in subsection (1)(c) above, then, subject to section 248, if the part of the consideration which was not so applied (“the unexpended consideration”) is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the old land, the landowner, on making a claim as respects the consideration which was so applied, shall be treated for the purposes of this Act—
- (a) as if the amount of the gain so accruing were reduced to the amount of the unexpended consideration (and, if not all chargeable gain, with a proportionate reduction in the amount of the chargeable gain); and
  - (b) as if the amount or value of the consideration for the acquisition of the new land were reduced by the amount by which the gain is reduced (or, as the case may be, the amount by which the chargeable gain is proportionately reduced) under paragraph (a) above.
- (4) Nothing in subsection (2) or subsection (3) above affects the treatment for the purposes of this Act of the authority by whom the old land was acquired or of the other party to the transaction involving the acquisition of the new land.
- (5) For the purposes of this section—
- (a) subsection (2) of section 152 shall apply in relation to subsection (2)(a) and subsection (2)(b) above as it applies in relation to subsection (1)(a) and subsection (1)(b) of that section; and
  - (b) [<sup>F61</sup>subsections (3) and (4)] of that section shall apply as if any reference to the new assets were a reference to the new land, any reference to the old assets were a reference to the old land and any reference to that section were a reference to this.
- [<sup>F62</sup>(5A) Subsections (2A) and (2C) of section 175 shall apply in relation to this section as they apply in relation to section 152 (but as if the reference in subsection (2C) to the new assets were a reference to the new land).]
- (6) Where this section applies, any such amount as is referred to in subsection (2) of section 245 shall be treated as forming part of the consideration for the disposal of the old land and, accordingly, so much of that subsection as provides for a deemed disposal of other land shall not apply.
- (7) The provisions of this Act fixing the amount of the consideration deemed to be given for the acquisition or disposal of assets shall be applied before this section is applied.
- (8) In this section—
- “land” includes any interest in or right over land; and
  - “authority exercising or having compulsory powers” shall be construed in accordance with section 243(5).



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#### Textual Amendments

- F61** Words in s. 247(5)(b) substituted (with effect in accordance with s. 121(8) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 141\(5\)](#)
- F62** S. 247(5A) inserted (with application in accordance with s. 48(6) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 48\(2\)](#)

#### [<sup>F63</sup> 247A Provisional application of section 247.

- (1) This section applies where a person who disposes of land (“the old land”) to an authority exercising or having compulsory powers declares, in his return for the chargeable period in which the disposal takes place—
  - (a) that the whole or any specified part of the consideration for the disposal will be applied in the acquisition of other land (“the new land”);
  - (b) that the acquisition will take place as mentioned in subsection (3) of section 152; and
  - (c) that the new land will not be land excluded from section 247(1)(c) by section 248.
- (2) Until the declaration ceases to have effect, section 247 shall apply as if the acquisition had taken place and the person had made a claim under that section.
- (3) For the purposes of this section, subsections (3) to (5) of section 153A shall apply as if the reference to section 152 or 153 were a reference to section 247 and the reference to the old assets were a reference to the old land.
- (4) In this section “land” and “authority exercising or having compulsory powers” have the same meaning as in section 247.]

#### Textual Amendments

- F63** S. 247A inserted (with effect in accordance with s. 121(8) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 141\(6\)](#)

#### 248 Provisions supplementary to section 247.

- (1) Land is excluded from paragraph (c) of subsection (1) of section 247 if—
  - (a) it is a dwelling-house or part of a dwelling-house (or an interest in or right over a dwelling-house), and
  - (b) by virtue of, or of any claim under, any provision of sections 222 to 226 the whole or any part of a gain accruing on a disposal of it by the landowner at a material time would not be a chargeable gain;and for the purposes of this subsection “a material time” means any time during the period of 6 years beginning on the date of the acquisition referred to in the said paragraph (c).
- (2) If, at any time during the period of 6 years referred to in subsection (1) above, land which at the beginning of that period was not excluded from section 247(1)(c) by virtue of that subsection becomes so excluded, the amount of any chargeable gain accruing on the disposal of the old land shall be redetermined without regard to any relief previously given under section 247 by reference to the amount or value

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of the consideration for the acquisition of that land; and all such adjustments of capital gains tax, whether by way of assessment or otherwise, may be made at any time, notwithstanding anything in section 34 of the Management Act (time limit for assessments).

This subsection also applies where the period of 6 years referred to above began before the commencement of this section (and accordingly the references to section 247 include references to section 111A of the 1979 Act).

- (3) Where the new land is a depreciating asset, within the meaning of section 154, that section has effect as if—
  - (a) any reference in subsection (1) or subsection (4) to section 152 or 153 were a reference to subsection (2) or subsection (3) respectively of section 247; and
  - (b) paragraph (b) of subsection (2) were omitted; and
  - (c) the reference in subsection (5) to section 152(3) were a reference to that provision as applied by section 247(5).
- (4) No claim may be made under section 243 in relation to a transfer which constitutes a disposal in respect of which a claim is made under section 247.
- (5) Expressions used in this section have the same meaning as in section 247.

#### *Agricultural land and woodlands*

### **249 Grants for giving up agricultural land.**

For the purposes of capital gains tax, a sum payable to an individual by virtue of a scheme under section 27 of the <sup>M11</sup>Agriculture Act 1967 (grants for relinquishing occupation of uncommercial agricultural units) shall not be treated as part of the consideration obtained by him for, or otherwise as accruing to him on, the disposal of any asset.

#### **Marginal Citations**

**M11** 1967 c. 22.

### **250 Woodlands.**

- (1) Consideration for the disposal of trees standing or felled or cut on woodlands managed by the occupier on a commercial basis and with a view to the realisation of profits shall be excluded from the computation of the gain if the person making the disposal is the occupier.
- (2) Capital sums received under a policy of insurance in respect of the destruction of or damage or injury to trees by fire or other hazard on such woodlands shall be excluded from the computation of the gain if the person making the disposal is the occupier.
- (3) Subsection (2) above has effect notwithstanding section 22(1).
- (4) In the computation of the gain so much of the cost of woodland in the United Kingdom shall be disregarded as is attributable to trees growing on the land.

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- (5) In the computation of the gain accruing on a disposal of woodland in the United Kingdom so much of the consideration for the disposal as is attributable to trees growing on the land shall be excluded.
- (6) References in this section to trees include references to saleable underwood.

### Debts

## 251 General provisions.

- (1) Where a person incurs a debt to another, whether in sterling or in some other currency, no chargeable gain shall accrue to that (that is the original) creditor or his personal representative or legatee on a disposal of the debt, except in the case of the debt on a security (as defined in section 132).
- (2) Subject to the provisions of sections [F64]132, 135 and 136] and subject to subsection (1) above, the satisfaction of a debt or part of it (including a debt on a security as defined in section 132) shall be treated as a disposal of the debt or of that part by the creditor made at the time when the debt or that part is satisfied.
- (3) Where property is acquired by a creditor in satisfaction of his debt or part of it, then subject to the provisions of sections [F65]132, 135 and 136] the property shall not be treated as disposed of by the debtor or acquired by the creditor for a consideration greater than its market value at the time of the creditor's acquisition of it; but if under subsection (1) above (and in a case not falling within [F66]section 132, 135 or 136]) no chargeable gain is to accrue on a disposal of the debt by the creditor (that is the original creditor), and a chargeable gain accrues to him on a disposal by him of the property, the amount of the chargeable gain shall (where necessary) be reduced so as not to exceed the chargeable gain which would have accrued if he had acquired the property for a consideration equal to the amount of the debt or that part of it.
- (4) A loss accruing on the disposal of a debt acquired by the person making the disposal from the original creditor or his personal representative or legatee at a time when the creditor or his personal representative or legatee is a person connected with the person making the disposal, and so acquired either directly or by one or more purchases through persons all of whom are connected with the person making the disposal, shall not be an allowable loss.
- (5) Where the original creditor is a trustee and the debt, when created, is settled property, subsections (1) and (4) above shall apply as if for the references to the original creditor's personal representative or legatee there were substituted references to any person becoming absolutely entitled, as against the trustee, to the debt on its ceasing to be settled property, and to that person's personal representative or legatee.
- [F67](6) For the purposes of this section a debenture issued by any company on or after 16th March 1993 shall be deemed to be a security (as defined in section 132) if—
  - (a) it is issued on a reorganisation (as defined in section 126(1)) or in pursuance of its allotment on any such reorganisation;
  - (b) it is issued in exchange for shares in or debentures of another company and in a case [F68]to which section 135 applies and which is unaffected by section 137(1)];
  - (c) it is issued under any such arrangements as are mentioned in subsection (1) (a) of section 136 and in a case unaffected by section 137 where section 136

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requires shares or debentures in another company to be treated as exchanged for, or for anything that includes, that debenture; or

- (d) it is issued in pursuance of rights attached to any debenture issued on or after 16th March 1993 and falling within paragraph (a), (b) or (c) above

[<sup>F69</sup>and any debenture which results from a conversion of securities within the meaning of section 132, or is issued in pursuance of rights attached to such a debenture, shall be deemed for the purposes of this section to be a security (as defined in that section).]

[<sup>F70</sup>(7) Where any instrument specified in subsection (8) below is not a security (as defined in section 132), that instrument shall be deemed to be such a security for the purposes of this section, other than the purposes of determining what is or is not an allowable loss in any case.

(8) The instruments mentioned in subsection (7) above are—

- (a) any instrument that would fall to be treated for the purposes of this Act as an asset representing a loan relationship of a company if the provisions of sections 92(4) and 93(4) of the Finance Act 1996 (convertible securities and assets linked to the value of chargeable assets) were disregarded; or
- (b) any instrument which (even apart from those provisions) is not a loan relationship of a company but which would be a [<sup>F71</sup>deeply discounted security for the purposes of Chapter 8 of Part 4 of ITTOIA 2005 if section 432(2) of that Act] (excluded indexed securities) were omitted.]

#### Textual Amendments

- F64** Words in s. 251(2) substituted (with effect in accordance with Sch. 9 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 9 para. 5\(12\)\(a\)](#)
- F65** Words in s. 251(3) substituted (with effect in accordance with Sch. 9 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 9 para. 5\(12\)\(b\)\(i\)](#)
- F66** Words in s. 251(3) substituted (with effect in accordance with Sch. 9 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 9 para. 5\(12\)\(b\)\(ii\)](#)
- F67** S. 251(6) inserted (27.7.1993 with effect as mentioned in s. 84(3)) by [1993 c. 34, s. 84\(2\)\(3\)](#)
- F68** Words in s. 251(6)(b) substituted (with effect in accordance with Sch. 9 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 9 para. 5\(12\)\(c\)](#)
- F69** Words in s. 251(6) inserted (with effect in accordance with s. 88(6) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [s. 88\(5\)](#)
- F70** S. 251(7)(8) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 64](#) (with [Sch. 15](#))
- F71** Words in s. 251(8)(b) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [s. 883\(1\)](#), [Sch. 1 para. 442](#) (with [Sch. 2](#))

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

- C3** S. 251(8) modified (27.7.1999) by [Finance Act 1999 \(c. 16\)](#), [s. 65\(11\)](#)

## 252 Foreign currency bank accounts.

- (1) Subject to subsection (2) below, section 251(1) shall not apply to a debt owed by a bank which is not in sterling and which is represented by a sum standing to the credit of a person in an account in the bank.
- (2) Subsection (1) above shall not apply to a sum in an individual's bank account representing currency acquired by the holder for the personal expenditure outside the

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United Kingdom of himself or his family or dependants (including expenditure on the provision or maintenance of any residence outside the United Kingdom).

## 253 Relief for loans to traders.

- (1) In this section “a qualifying loan” means a loan in the case of which—
- the money lent is used by the borrower wholly for the purposes of a trade carried on by him, not being a trade which consists of or includes the lending of money, and
  - the borrower is resident in the United Kingdom, and
  - the borrower’s debt is not a debt on a security as defined in section 132;
- and for the purposes of paragraph (a) above money used by the borrower for setting up a trade which is subsequently carried on by him shall be treated as used for the purposes of that trade.

- (2) In subsection (1) above references to a trade include references to a profession or vocation; and where money lent to a company is lent by it to another company in the same group, being a trading company, that subsection shall apply to the money lent to the first-mentioned company as if it had used it for any purpose for which it is used by the other company while a member of the group.

- (3) [<sup>F72</sup>Where a person who has made a qualifying loan makes a claim and at that time]—
- any outstanding amount of the principal of the loan has become irrecoverable, and
  - the claimant has not assigned his right to recover that amount, and
  - the claimant and the borrower were not each other’s spouses [<sup>F73</sup>or civil partners], or companies in the same group, when the loan was made or at any subsequent time,

[<sup>F74</sup>then, to the extent that that amount is not an amount which, in the case of the claimant, falls to be brought into account as a debit given for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships),] this Act shall have effect as if an allowable loss equal to that amount had accrued to the claimant [<sup>F75</sup>at the time of the claim or (subject to subsection (3A) below) any earlier time specified in the claim].

[<sup>F76</sup>(3A) For the purposes of subsection (3) above, an earlier time may be specified in the claim if:

- the amount to which that subsection applies was also irrecoverable at the earlier time; and either
- for capital gains tax purposes the earlier time falls not more than two years before the beginning of the year of assessment in which the claim is made; or
- for corporation tax purposes the earlier time falls on or after the first day of the earliest accounting period ending not more than two years before the time of the claim.]

- (4) [<sup>F77</sup>Where a person who has guaranteed the repayment of a loan which is, or but for subsection (1)(c) above would be, a qualifying loan makes a claim and at that time]—
- any outstanding amount of, or of interest in respect of, the principal of the loan has become irrecoverable from the borrower, and
  - the claimant has made a payment under the guarantee (whether to the lender or a co-guarantor) in respect of that amount, and

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- (c) the claimant has not assigned any right to recover that amount which has accrued to him (whether by operation of law or otherwise) in consequence of his having made the payment, and
- (d) the lender and the borrower were not each other's spouses [<sup>F78</sup>or civil partners], or companies in the same group, when the loan was made or at any subsequent time and the claimant and the borrower were not each other's spouses [<sup>F78</sup>or civil partners], and the claimant and the lender were not companies in the same group, when the guarantee was given or at any subsequent time,

this Act shall have effect as if an allowable loss had accrued to the claimant when the payment was made; and the loss shall be equal to the payment made by him in respect of the amount mentioned in paragraph (a) above less any contribution payable to him by any co-guarantor in respect of the payment so made.

[<sup>F79</sup>(4A) A claim under subsection (4) above shall be made—

- (a) for the purposes of capital gains tax, on or before the fifth anniversary of the 31st January next following the year of assessment in which the payment was made;
- (b) for the purposes of corporation tax, within 6 years after the end of the accounting period in which the payment was made.]

(5) Where an allowable loss has been treated under subsection (3) or (4) above as accruing to any person and the whole or any part of the outstanding amount mentioned in subsection (3)(a) or, as the case may be, subsection (4)(a) is at any time recovered by him, this Act shall have effect as if there had accrued to him at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

(6) Where—

- (a) an allowable loss has been treated under subsection (4) above as accruing to any person, and
- (b) the whole or any part of the amount of the payment mentioned in subsection (4)(b) is at any time recovered by him,

this Act shall have effect as if there had accrued to him at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

(7) Where—

- (a) an allowable loss has been treated under subsection (3) above as accruing to a company (“the first company”), and
- (b) the whole or any part of the outstanding amount mentioned in subsection (3) (a) is at any time recovered by a company (“the second company”) in the same group as the first company,

this Act shall have effect as if there had accrued to the second company at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

(8) Where—

- (a) an allowable loss has been treated under subsection (4) above as accruing to a company (“the first company”), and
- (b) the whole or any part of the outstanding amount mentioned in subsection (4) (a), or the whole or any part of the amount of the payment mentioned in subsection (4)(b), is at any time recovered by a company (“the second company”) in the same group as the first company,

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this Act shall have effect as if there had accrued to the second company at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

- (9) For the purposes of subsections (5) to (8) above, a person shall be treated as recovering an amount if he (or any other person by his direction) receives any money or money's worth in satisfaction of his right to recover that amount or in consideration of his assignment of the right to recover it; and where a person assigns such a right otherwise than by way of a bargain made at arm's length he shall be treated as receiving money or money's worth equal to the market value of the right at the time of the assignment.
- (10) No amount shall be treated under this section as giving rise to an allowable loss or chargeable gain in the case of any person if it falls to be taken into account in computing his income for the purposes of income tax or corporation tax.
- (11) Where an allowable loss has been treated as accruing to a person under subsection (4) above by virtue of a payment made by him at any time under a guarantee—
- (a) no chargeable gain shall accrue to him otherwise than under subsection (5) above, and
  - (b) no allowable loss shall accrue to him under this Act, on his disposal of any rights that have accrued to him (whether by operation of law or otherwise) in consequence of his having made any payment under the guarantee at or after that time.
- (12) References in this section to an amount having become irrecoverable do not include references to cases where the amount has become irrecoverable in consequence of the terms of the loan, of any arrangements of which the loan forms part, or of any act or omission by the lender or, in a case within subsection (4) above, the guarantor.
- (13) For the purposes of subsections (7) and (8) above, 2 companies are in the same group if they were in the same group when the loan was made or have been in the same group at any subsequent time.
- (14) In this section—
- (a) “spouses” means spouses who are living together (construed in accordance with section 288(3)),
  - [<sup>F80</sup>(aa) “civil partners” means civil partners who are living together (construed in accordance with section 288(3)),]
  - (b) “trading company” has the meaning given by [<sup>F81</sup>paragraph 22 of Schedule A1], and
  - (c) “group” shall be construed in accordance with section 170.
- (15) Subsection (3) above does not apply where the loan was made before 12th April 1978 and subsection (4) above does not apply where the guarantee was given before that date.

#### Textual Amendments

- F72** Words in s. 253(3) substituted (with effect in accordance with Sch. 39 para. 8(5) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 8\(2\)\(a\)](#)
- F73** Words in s. 253(3)(c) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [120\(2\)](#)

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- F74** Words in s. 253(3) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 65](#) (with [Sch. 15](#))
- F75** Words in s. 253(3) substituted (with effect in accordance with Sch. 39 para. 8(5) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 8\(2\)\(b\)](#)
- F76** S. 253(3A) inserted (with effect in accordance with Sch. 39 para. 8(5) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 8\(3\)](#)
- F77** Words in s. 253(4) substituted (with effect in accordance with Sch. 39 para. 8(5) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 8\(4\)](#)
- F78** Words in s. 253(4)(d) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), [regs. 1\(1\)](#), [120\(3\)](#)
- F79** S. 253(4A) inserted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 40](#)
- F80** S. 253(14)(aa) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), [regs. 1\(1\)](#), [120\(4\)](#)
- F81** Words in s. 253(14)(b) substituted (with effect in relation to the year 2003-04 and subsequent years of assessment in accordance with s. 140(6) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 140\(5\)\(b\)](#)

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

- C4** Ss. 253, 254 modified (11.1.1994 retrospective) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 9\(3\)\(4\)](#)
- C5** Ss. 253, 254 restricted (11.1.1994 retrospective) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 9\(5\)](#)
- C6** Ss. 253, 254 modified (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 9\(2\)\(3\)](#) (with [Sch. 4 para. 9\(3\)\(5\)](#), 14); [S.I. 1994/2189](#), art. 2, [Sch.](#)
- C7** S. 253(4) modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 9\(2\)\(5\)](#)
- C8** S. 253(4) modified (8.11.1995) by [Atomic Energy Authority Act 1995 \(c. 37\)](#), [Sch. 3 para. 6\(2\)](#)
- C9** S. 253(7)(8) excluded (11.1.1994 retrospective) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 9\(9\)](#)
- C10** S. 253(9) modified (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 9\(5\)](#) (with [Sch. 4 para. 14](#)); [S.I. 1994/2189](#), art. 2, [Sch.](#)
- C11** S. 253(10) modified (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 9\(6\)](#) (with [Sch. 4 para. 14](#)); [S.I. 1994/2189](#), art. 2, [Sch.](#)
- C12** S. 253(13) applied (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 9\(7\)](#) (with [Sch. 4 para. 14](#)); [S.I. 1994/2189](#), art. 2, [Sch.](#)

#### **<sup>F82</sup>254 Relief for debts on qualifying corporate bonds.**

.....

#### **Textual Amendments**

- F82** Ss. 254, 255 repealed (with effect in accordance with s. 141(2)(b) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 141(1)(b), [Sch. 27 Pt. III\(32\)](#)

#### **<sup>F82</sup>255 Provisions supplementary to section 254.**

.....



*Status: Point in time view as at 22/03/2006.*

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### Textual Amendments

**F82** Ss. 254, 255 repealed (with effect in accordance with s. 141(2)(b) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 141(1)(b), [Sch. 27 Pt. III\(32\)](#)

### *Charities and gifts of non-business assets etc.*

#### **256 Charities.**

- (1) Subject to section 505(3) of the Taxes Act and subsection (2) below, a gain shall not be a chargeable gain if it accrues to a charity and is applicable and applied for charitable purposes.
- (2) If property held on charitable trusts ceases to be subject to charitable trusts—
  - (a) the trustees shall be treated as if they had disposed of, and immediately reacquired, the property for a consideration equal to its market value, any gain on the disposal being treated as not accruing to a charity, and
  - (b) if and so far as any of that property represents, directly or indirectly, the consideration for the disposal of assets by the trustees, any gain accruing on that disposal shall be treated as not having accrued to a charity,and an assessment to capital gains tax chargeable by virtue of paragraph (b) above may be made at any time not more than 3 years after the end of the year of assessment in which the property ceases to be subject to charitable trusts.

#### **257 Gifts to charities etc.**

- (1) Subsection (2) below shall apply where a disposal of an asset is made otherwise than under a bargain at arm's length—
  - (a) to a charity, or
  - (b) to any bodies mentioned in Schedule 3 to the <sup>M12</sup>Inheritance Tax Act 1984 (gifts for national purposes, etc)[<sup>F83</sup>and the disposal is not one in relation to which section 151A(1) has effect.]
- (2) Sections 17(1) and 258(3) shall not apply; but if the disposal is by way of gift (including a gift in settlement) or for a consideration not exceeding the sums allowable as a deduction under section 38, then—
  - (a) the disposal and acquisition shall be treated for the purposes of this Act as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal, and
  - (b) where, after the disposal, the asset is disposed of by the person who acquired it under the disposal, its acquisition by the person making the earlier disposal shall be treated for the purposes of this Act as the acquisition of the person making the later disposal.
- (3) Where—
  - (a) otherwise than on the termination of a life interest (within the meaning of section 72) by the death of the person entitled thereto, any assets or parts of any assets forming part of settled property are, under section 71, deemed to be disposed of and reacquired by the trustee, and

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- (b) the person becoming entitled as mentioned in section 71(1) is a charity, or a body mentioned in Schedule 3 to the Inheritance Tax Act 1984 (gifts for national purposes, etc),

then, if no consideration is received by any person for or in connection with any transaction by virtue of which the charity or other body becomes so entitled, the disposal and reacquisition of the assets to which the charity or other body becomes so entitled shall, notwithstanding section 71, be treated for the purposes of this Act as made for such consideration as to secure that neither a gain nor a loss accrues on the disposal.

- (4) In subsection (2)(b) above the first reference to a disposal includes a disposal to which section 146(2) of the 1979 Act applied where the person who acquired the asset on that disposal disposes of the asset after the coming into force of this section.

#### Textual Amendments

**F83** Words in s. 257(1) inserted (with effect in accordance with s. 72(8) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 72\(5\)](#)

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

**C13** S. 257 applied (with modifications) (with effect in accordance with s. 58(4) of the amending Act) by [Finance Act 2002 \(c. 23\), Sch. 18 para. 9\(3\)\(b\)](#)

#### Marginal Citations

**M12** 1984 c. 51.

## 258 Works of art etc.

<sup>F84</sup>(1) .....

- (2) A gain shall not be a chargeable gain if it accrues on the disposal of an asset with respect to which an inheritance tax undertaking or an undertaking under the following provisions of this section has been given and—

- (a) the disposal is by way of sale by private treaty to a body mentioned in Schedule 3 to the [<sup>F85</sup>Inheritance Tax Act 1984 (“the 1984 Act”)] (museums, etc.), or is to such a body otherwise than by sale, or
- (b) the disposal is to the Board in pursuance of section 230 of the 1984 Act or in accordance with directions given by the Treasury under section 50 or 51 of the <sup>M13</sup>Finance Act 1946 (acceptance of property in satisfaction of tax).

- (3) Subsection (4) below shall have effect in respect of the disposal of any asset which is property which has been or could be designated under section 31 of the 1984 Act, being—

- (a) a disposal by way of gift, including a gift in settlement, or
- (b) a disposal of settled property by the trustee on an occasion when, under section 71(1), the trustee is deemed to dispose of and immediately reacquire settled property (other than any disposal on which by virtue of section 73 no chargeable gain or allowable loss accrues to the trustee),

if the requisite undertaking described in section 31 of the 1984 Act (maintenance, preservation and access) is given by such person as the Board think appropriate in the circumstances of the case.

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- (4) The person making a disposal to which subsection (3) above applies and the person acquiring the asset on the disposal shall be treated for all the purposes of this Act as if the asset was acquired from the one making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.
- (5) If—
- (a) there is a sale of the asset and inheritance tax is chargeable under section 32 of the 1984 Act (or would be chargeable if an inheritance tax undertaking as well as an undertaking under this section had been given), or
  - (b) the Board are satisfied that at any time during the period for which any such undertaking was given it has not been observed in a material respect,
- the person selling that asset or, as the case may be, the owner of the asset shall be treated for the purposes of this Act as having sold the asset for a consideration equal to its market value, and, in the case of a failure to comply with the undertaking, having immediately reacquired it for a consideration equal to its market value.
- (6) The period for which an undertaking under this section is given shall be until the person beneficially entitled to the asset dies or it is disposed of, whether by sale or gift or otherwise; and if the asset subject to the undertaking is disposed of—
- (a) otherwise than on sale, and
  - (b) without a further undertaking being given under this section,
- subsection (5) above shall apply as if the asset had been sold to an individual.

References in this subsection to a disposal shall be construed without regard to any provision of this Act under which an asset is deemed to be disposed of.

- (7) Where under subsection (5) above a person is treated as having sold for a consideration equal to its market value any asset within section 31(1)(c), (d) or (e) of the 1984 Act, he shall also be treated as having sold and immediately reacquired for a consideration equal to its market value any asset associated with it; but the Board may direct that the preceding provisions of this subsection shall not have effect in any case in which it appears to them that the entity consisting of the asset and any assets associated with it has not been materially affected.

For the purposes of this subsection 2 or more assets are associated with each other if one of them is a building falling within section 31(1)(c) of the 1984 Act and the other or others such land or objects as, in relation to that building, fall within section 31(1) (d) or (e) of the 1984 Act.

- (8) If in pursuance of subsection (5) above a person is treated as having on any occasion sold an asset and inheritance tax becomes chargeable on the same occasion, then, in determining the value of the asset for the purposes of that tax, an allowance shall be made for the capital gains tax chargeable on any chargeable gain accruing on that occasion.

[<sup>F86</sup>(8A) Section 35A of the 1984 Act (variation of undertakings) shall have effect in relation to an undertaking given under this section as it has effect in relation to an undertaking given under section 30 of that Act.]

- (9) In this section “inheritance tax undertaking” means an undertaking under Chapter II of Part II or section 78 of, or Schedule 5 to, the 1984 Act.

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#### Textual Amendments

- F84** S. 258(1) repealed (with effect in accordance with Sch. 27 Pt. IV of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. IV](#)
- F85** Words in s. 258(2)(a) substituted (with effect in accordance with s. 143(7) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 143\(7\)](#)
- F86** S. 258(8A) inserted (with effect in accordance with Sch. 25 para. 9(2) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 25 para. 9\(1\)](#)

#### Marginal Citations

- M13** 1946 c. 64.

### 259 Gifts to housing associations.

(1) Subsection (2) below shall apply where—

- (a) a disposal of an estate or interest in land in the United Kingdom is made to a [<sup>F87</sup>relevant] housing association otherwise than under a bargain at arm's length, and
- (b) a claim for relief under this section is made by the transferor and the association.

(2) Section 17(1) shall not apply; but if the disposal is by way of gift or for a consideration not exceeding the sums allowable as a deduction under section 38, then—

- (a) the disposal and acquisition shall be treated for the purposes of this Act as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal, and
- (b) where, after the disposal, the estate or interest is disposed of by the association, its acquisition by the person making the earlier disposal shall be treated for the purposes of this Act as the acquisition of the association.

[<sup>F88</sup>(3) In this section “relevant housing association” means—

- (a) a registered social landlord within the meaning of Part I of the Housing Act 1996,
- (b) a registered housing association within the meaning of the Housing Associations Act 1985 (Scottish registered housing associations), or
- (c) a registered housing association within the meaning of Part II of the Housing (Northern Ireland) Order 1992.]

(4) In subsection (2)(b) above the first reference to a disposal includes a disposal to which section 146A(2) of the 1979 Act applied where the association which acquired the estate or interest in land on that disposal disposes of it after the coming into force of this section.

#### Textual Amendments

- F87** Word in s. 259(1)(a) substituted (1.10.1996) by [The Housing Act 1996 \(Consequential Provisions\) Order 1996 \(S.I. 1996/2325\)](#), [art. 1\(2\)](#), [Sch. 2 para. 20\(3\)\(a\)](#)
- F88** S. 259(3) substituted (1.10.1996) by [The Housing Act 1996 \(Consequential Provisions\) Order 1996 \(S.I. 1996/2325\)](#), [art. 1\(2\)](#), [Sch. 2 para. 20\(3\)\(b\)](#)

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## 260 Gifts on which inheritance tax is chargeable etc.

- (1) If—
- (a) an individual or the trustees of a settlement (“the transferor”) make a disposal within subsection (2) below of an asset,
  - (b) the asset is acquired by an individual or the trustees of a settlement (“the transferee”), and
  - (c) a claim for relief under this section is made by the transferor and the transferee or, where the trustees of a settlement are the transferee, by the transferor alone,
- then, subject to subsection (6) below and [F89sections 169[F90, 169B, 169C] and 261], subsection (3) below shall apply in relation to the disposal.
- (2) A disposal is within this subsection if it is made otherwise than under a bargain at arm’s length and—
- (a) is a chargeable transfer within the meaning of the <sup>M14</sup>Inheritance Tax Act 1984 (or would be but for section 19 of that Act) and is not a potentially exempt transfer (within the meaning of that Act),
  - (b) is an exempt transfer by virtue of—
    - (i) section 24 of that Act (transfers to political parties),
    - <sup>F91</sup>(ii) . . . . .
    - (iii) section 27 of that Act (transfers to maintenance funds for historic buildings etc.), or
    - (iv) section 30 of that Act (transfers of designated property),
  - (c) is a disposition to which section 57A of that Act applies and by which the property disposed of becomes held on trusts of the kind referred to in subsection (1)(b) of that section (maintenance funds for historic buildings etc.),
  - (d) by virtue of subsection (4) of section 71 of that Act (accumulation and maintenance trusts) does not constitute an occasion on which inheritance tax is chargeable under that section,
  - [F92(da) by virtue of subsection (2) of section 71B of that Act (trusts for bereaved minors) does not constitute an occasion on which inheritance tax is chargeable under that section,
  - (db) by virtue of subsection (2) of section 71E of that Act (age 18-to-25 trusts) does not constitute an occasion on which inheritance tax is charged under that section,]
  - (e) by virtue of section 78(1) of that Act (transfers of works of art etc.) does not constitute an occasion on which tax is chargeable under Chapter III of Part III of that Act, or
  - (f) is a disposal of an asset comprised in a settlement where, as a result of the asset or part of it becoming comprised in another settlement, there is no charge, or a reduced charge, to inheritance tax by virtue of paragraph 9, 16 or 17 of Schedule 4 to that Act (transfers to maintenance funds for historic buildings etc.).
- (3) Where this subsection applies in relation to a disposal—
- (a) the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, and
  - (b) the amount of the consideration for which, apart from this section, the transferee would be regarded for the purposes of capital gains tax as having acquired the asset in question,

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shall each be reduced by an amount equal to the held-over gain on the disposal.

(4) Subject to subsection (5) below, the reference in subsection (3) above to the held-over gain on a disposal is a reference to the chargeable gain which would have accrued on that disposal apart from this section.

(5) In any case where—

- (a) there is actual consideration (as opposed to the consideration equal to the market value which is deemed to be given by virtue of any provision of this Act) for a disposal in respect of which a claim for relief is made under this section, and
- (b) that actual consideration exceeds the sums allowable as a deduction under section 38,

the held-over gain on the disposal shall be reduced by the excess referred to in paragraph (b) above<sup>F93</sup> ... .

(6) Subsection (3) above does not apply in relation to a disposal of assets within section 115(1) on which a gain is deemed to accrue by virtue of section 116(10)(b).

<sup>F94</sup>(6A) .....

<sup>F95</sup>(6B) .....

(7) In the case of a disposal within subsection (2)(a) above [<sup>F96</sup>(whether or not subsection (3) above applies in relation to it)] there shall be allowed as a deduction in computing the chargeable gain accruing to the transferee on the disposal of the asset in question an amount equal to whichever is the lesser of—

- (a) the inheritance tax attributable to the value of the asset; and
- (b) the amount of the chargeable gain as computed apart from this subsection.

(8) Where an amount of inheritance tax is varied after it has been taken into account under subsection (7) above, all necessary adjustments shall be made, whether by the making of an assessment to capital gains tax or by the discharge or repayment of such tax.

(9) Where subsection (3) above applies in relation to a disposal which is deemed to occur by virtue of section 71(1) or 72(1), subsection (5) above shall not apply.

(10) Where a disposal is partly within subsection (2) above, or is a disposal within paragraph (f) of that subsection on which there is a reduced charge such as is mentioned in that paragraph, the preceding provisions of this section shall have effect in relation to an appropriate part of the disposal.

#### **Textual Amendments**

**F89** Words in s. 260(1) substituted (with effect in accordance with s. 90(5) of the amending Act) by [Finance Act 2000 \(c. 17\), s. 90\(2\)](#)

**F90** Words in s. 260(1) inserted (with effect in accordance with Sch. 21 para. 10(4) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 21 para. 5\(2\)](#)

**F91** S. 260(2)(b)(ii) repealed (with effect in accordance with Sch. 27 Pt. IV of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 27 Pt. IV](#)

**F92** S. 260(2)(da)(db) inserted (retrospective to 22.3.2006) by [Finance Act 2006 \(c. 25\), Sch. 20 paras. 29\(2\), 32](#)

*Status: Point in time view as at 22/03/2006.*

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- F93** Words in s. 260(5) repealed (with effect in relation to disposals in the year 2003-04 and subsequent years of assessment in accordance with Sch. 27 Pt. III(31) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. III\(31\)](#)
- F94** S. 260(6A) repealed (with effect in accordance with Sch. 21 para. 10(8) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 21 para. 5\(3\)](#), [Sch. 42 Pt. 2\(14\)](#)
- F95** S. 260(6B) repealed (with effect in accordance with Sch. 21 para. 10(8) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 21 para. 5\(4\)](#), [Sch. 42 Pt. 2\(14\)](#)
- F96** Words in s. 260(7) inserted (with effect in accordance with Sch. 21 para. 10(9) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 21 para. 5\(5\)](#)

#### Marginal Citations

**M14** 1984 c. 51.

### 261 Section 260 relief: gifts to non-residents.

- (1) Section 260(3) shall not apply where the transferee is neither resident nor ordinarily resident in the United Kingdom.
- (2) Section 260(3) shall not apply where the transferee is an individual who—
- though resident or ordinarily resident in the United Kingdom, is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom, and
  - by virtue of the arrangements would not be liable in the United Kingdom to tax on a gain arising on a disposal of the asset occurring immediately after its acquisition.

*<sup>F97</sup> Know-how*

#### Textual Amendments

**F97** S. 261A and cross-heading inserted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 444](#) (with [Sch. 2](#))

### 261A Disposal of know-how as part of disposal of all or part of a trade

- (1) This section applies if—
- a person carrying on a trade receives consideration for the disposal of know-how which has been used in the trade, and
  - the know-how is disposed of as part of the disposal of all or part of the trade.
- (2) If, as a result of section 194 of ITTOIA 2005, the consideration is treated for income tax purposes as—
- a capital receipt for goodwill (in relation to the person disposing of the know-how), or
  - a capital payment for goodwill (in relation to the person acquiring the know-how),
- the consideration is treated for capital gains tax purposes in the same way.
- (3) This section has effect as if it were contained in Chapter 14 of Part 2 of ITTOIA 2005.]

*Status: Point in time view as at 22/03/2006.*

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### *Miscellaneous reliefs and exemptions*

#### **262 Chattel exemption.**

- (1) Subject to this section a gain accruing on a disposal of an asset which is tangible movable property shall not be a chargeable gain if the amount or value of the consideration for the disposal does not exceed £6,000.
- (2) Where the amount or value of the consideration for the disposal of an asset which is tangible movable property exceeds £6,000, there shall be excluded from any chargeable gain accruing on the disposal so much of it as exceeds five-thirds of the difference between—
  - (a) the amount or value of the consideration, and
  - (b) £6,000.
- (3) Subsections (1) and (2) above shall not affect the amount of an allowable loss accruing on the disposal of an asset, but for the purposes of computing under this Act the amount of a loss accruing on the disposal of tangible movable property the consideration for the disposal shall, if less than £6,000, be deemed to be £6,000 and the losses which are allowable losses shall be restricted accordingly.
- (4) If 2 or more assets which have formed part of a set of articles of any description all owned at one time by one person are disposed of by that person, and—
  - (a) to the same person, or
  - (b) to persons who are acting in concert or who are connected persons,whether on the same or different occasions, the 2 or more transactions shall be treated as a single transaction disposing of a single asset, but with any necessary apportionments of the reductions in chargeable gains, and in allowable losses, under subsections (2) and (3) above.
- (5) If the disposal is of a right or interest in or over tangible movable property—
  - (a) in the first instance subsections (1), (2) and (3) above shall be applied in relation to the asset as a whole, taking the consideration as including the market value of what remains undisposed of, in addition to the actual consideration,
  - (b) where the sum of the actual consideration and that market value exceeds £6,000, the part of any chargeable gain that is excluded from it under subsection (2) above shall be so much of the gain as exceeds five-thirds of the difference between that sum and £6,000 multiplied by the fraction equal to the actual consideration divided by the said sum, and
  - (c) where that sum is less than £6,000 any loss shall be restricted under subsection (3) above by deeming the consideration to be the actual consideration plus the said fraction of the difference between the said sum and £6,000.
- (6) This section shall not apply—
  - (a) in relation to a disposal of commodities of any description by a person dealing on a terminal market or dealing with or through a person ordinarily engaged in dealing on a terminal market, or
  - (b) in relation to a disposal of currency of any description.



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## 263 Passenger vehicles.

A mechanically propelled road vehicle constructed or adapted for the carriage of passengers, except for a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used, shall not be a chargeable asset; and accordingly no chargeable gain or allowable loss shall accrue on its disposal.

### [<sup>F98</sup>263ZA] **Former employees: employment-related liabilities**

- (1) This section applies if—
  - (a) a deduction of the amount of one or more deductible payments may be made under section 555 of ITEPA 2003 (former employee entitled to deduction from total income in respect of liabilities related to the former employment) when computing a former employee's total income for a tax year, and
  - (b) the total amount which may be deducted exceeds the total income for that year.
- (2) In this section “excess relief” means the amount of the difference between—
  - (a) the total amount which may be deducted, and
  - (b) the total income.
- (3) The amount of the excess relief may be treated as an allowable loss accruing to the former employee for that tax year.

This subsection applies only if the former employee makes a claim for the purpose.
- (4) But no relief is available under subsection (3) in respect of any amount of the excess relief that exceeds the maximum amount.
- (5) For the purposes of this section the “maximum amount”, in relation to the excess relief for a tax year, means the amount on which the former employee would be chargeable to capital gains tax for that year if the following were disregarded—
  - (a) any relief available under this section,
  - (b) any allowable losses falling to be carried forward to that year from a previous year for the purposes of section 2(2),
  - (c) section 3(1) (the annual exempt amount),
  - (d) any relief against capital gains tax under section 72 of the Finance Act 1991 (deduction of trading losses), and
  - (e) any relief against capital gains tax under section 90(4) of the Finance Act 1995 (relief for post-cessation expenditure).
- (6) A former employee may make a claim under subsection (3) and a claim under section 555(3) of ITEPA 2003 in the same notice.]

#### Textual Amendments

**F98** S. 263ZA inserted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 6 para. 217](#) (with [Sch. 7](#))

### [<sup>F99</sup>263A] **Agreements for sale and repurchase of securities.**

- (1) Subject to subsections (2) to (4) below, in any case falling within subsection (1) of section 730A of the Taxes Act (treatment of price differential on sale and repurchase

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- of securities) and in any case which would fall within that subsection if the sale price and the repurchase price were different—
- (a) the acquisition of the securities in question by the interim holder and the disposal of those securities by him to the repurchaser, and
  - (b) except where the repurchaser is or may be different from the original owner, the disposal of those securities by the original owner and any acquisition of those securities by the original owner as the repurchaser,
- shall be disregarded for the purposes of capital gains tax.
- (2) Subsection (1) above does not apply in any case where the repurchase price of the securities in question falls to be calculated for the purposes of section 730A of the Taxes Act by reference to provisions of section 737C of that Act that are not in force in relation to those securities when the repurchase price becomes due.
  - (3) Subsection (1) above does not apply if—
    - (a) the agreement or agreements under which provision is made for the sale and repurchase are not such as would be entered into by persons dealing with each other at arm's length; or
    - (b) any of the benefits or risks arising from fluctuations, before the repurchase takes place, in the market value of the securities sold accrues to, or falls on, the interim holder.
  - (4) Subsection (1) above does not apply in relation to any disposal or acquisition of qualifying corporate bonds in a case where the securities disposed of by the original owner or those acquired by him, or by any other person, as the repurchaser are not such bonds.
  - (5) Expressions used in this section and in section 730A of the Taxes Act have the same meanings in this section as in that section.]

#### Textual Amendments

**F99** S. 263A inserted (with effect in accordance with s. 80(5) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 80\(4\)](#)

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

**C14** S. 263A applied (with modifications) (2.1.1996) by [The Sale and Repurchase of Securities \(Modification of Enactments\) Regulations 1995 \(S.I. 1995/3220\)](#), regs. 1, **5**

**C15** S. 263A(1) applied (with modifications) (2.1.1996) by [The Sale and Repurchase of Securities \(Modification of Enactments\) Regulations 1995 \(S.I. 1995/3220\)](#), regs. 1, **4**

**C16** S. 263A(1) modified (1.1.1999) by [The European Single Currency \(Taxes\) Regulations 1998 \(S.I. 1998/3177\)](#), regs. 1, **14-18**

### [<sup>F100</sup>263B] **Stock lending arrangements.**

- (1) In this section “stock lending arrangement” means so much of any arrangements between two persons (“the borrower” and “the lender”) as are arrangements under which—
  - (a) the lender transfers securities to the borrower otherwise than by way of sale; and
  - (b) a requirement is imposed on the borrower to transfer those securities back to the lender otherwise than by way of sale.

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- (2) Subject to the following provisions of this section and section 263C(2), the disposals and acquisitions made in pursuance of any stock lending arrangement shall be disregarded for the purposes of capital gains tax.
- (3) Where—
- (a) the borrower under any stock lending arrangement disposes of any securities transferred to him under the arrangement,
  - (b) that disposal is made otherwise than in the discharge of the requirement for the transfer of securities back to the lender, and
  - (c) that requirement, so far as it relates to the securities disposed of, has been or will be discharged by the transfer of securities other than those transferred to the borrower,
- any question relating to the acquisition of the securities disposed of shall be determined (without prejudice to the provisions of Chapter I of Part IV) as if the securities disposed of were the securities with which that requirement (so far as relating to the securities disposed of) has been or will be discharged.
- (4) Where, in the case of any stock lending arrangement, it becomes apparent, at any time after the making of the transfer by the lender, that the requirement for the borrower to make a transfer back to the lender will not be complied with—
- (a) the lender shall be deemed for the purposes of this Act to have made a disposal at that time of the securities transferred to the borrower;
  - (b) the borrower shall be deemed to have acquired them at that time; and
  - (c) subsection (3) above shall have effect in relation to any disposal before that time by the borrower of securities transferred to him by the lender as if the securities deemed to have been acquired by the borrower in accordance with paragraph (b) above were to be used for discharging a requirement to transfer securities back to the lender.
- (5) References in this section, in relation to a person to whom securities are transferred, to the transfer of those securities back to another person shall be construed as if the cases where those securities are taken to be transferred back to that other person included any case where securities of the same description as those securities are transferred to that other person either—
- (a) in accordance with a requirement to transfer securities of the same description; or
  - (b) in exercise of a power to substitute securities of the same description for the securities that are required to be transferred back.
- (6) For the purposes of this section securities shall not be taken to be of the same description as other securities unless they are in the same quantities, give the same rights against the same persons and are of the same type and nominal value as the other securities.
- (7) In this section—
- “interest” includes dividends; and
  - “securities” means United Kingdom equities, United Kingdom securities or overseas securities (within the meaning, in each case, of Schedule 23A to the Taxes Act).

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#### Textual Amendments

**F100** Ss. 263B, 263C inserted (with effect in accordance with Sch. 10 para. 7(1) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 10 para. 5(1)**; S.I. 1997/991, art. 2

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

**C17** S. 263B modified (1.1.1999) by [The European Single Currency \(Taxes\) Regulations 1998 \(S.I. 1998/3177\)](#), regs. 1, **22(2)**

### 263C Stock lending involving redemption.

- (1) In section 263B references to the transfer back to a person of securities transferred by him shall be taken to include references to the payment to him, in pursuance of an obligation arising on any person's becoming entitled to receive an amount in respect of the redemption of those securities, of an amount equal to the amount of the entitlement.
- (2) Where, in pursuance of any such obligation, the lender under any stock lending arrangement is paid any amount in respect of the redemption of any securities to which the arrangement relates—
  - (a) that lender shall be deemed for the purposes of this Act to have disposed, for that amount, of the securities in respect of whose redemption it is paid (“the relevant lent securities”);
  - (b) the borrower shall not, in respect of the redemption, be taken for the purposes of this Act to have made any disposal of the relevant lent securities; and
  - (c) section 263B(3) shall have effect in relation to disposals of any of the relevant lent securities made by the borrower before the redemption as if—
    - (i) the amount paid to the lender were an amount paid for the acquisition of securities, and
    - (ii) the securities acquired were to be used by the borrower for discharging a requirement under the arrangement to transfer the relevant lent securities back to the lender.
- (3) Expressions used in this section and section 263B have the same meanings in this section as in that section.]

#### Textual Amendments

**F100** Ss. 263B, 263C inserted (with effect in accordance with Sch. 10 para. 7(1) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 10 para. 5(1)**; S.I. 1997/991, art. 2

### [<sup>F101</sup>263D] Gains accruing to persons paying manufactured dividends

- (1) This section applies where one of the following conditions is satisfied in relation to a person who—
  - (a) is resident in the United Kingdom, but
  - (b) is not a company.
- (2) Condition 1 is that—
  - (a) the person is the interim holder under a repurchase agreement,

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- (b) he disposes of any United Kingdom equities transferred to him under that agreement,
  - (c) a chargeable gain accrues to him on that disposal, and
  - (d) under that agreement, he pays a manufactured dividend which is representative of a dividend on those United Kingdom equities.
- (3) Condition 2 is that—
- (a) the person is the borrower under a stock lending arrangement,
  - (b) he disposes of any United Kingdom equities transferred to him under that arrangement,
  - (c) a chargeable gain accrues to him on that disposal, and
  - (d) under that arrangement, he pays a manufactured dividend which is representative of a dividend on those United Kingdom equities.
- (4) Condition 3 is that—
- (a) the person is a party to a contract or other arrangements for the transfer of United Kingdom equities which is neither a repurchase agreement nor a stock lending arrangement (“the short sale transaction”),
  - (b) he disposes of the United Kingdom equities under the short sale transaction,
  - (c) a chargeable gain accrues to him on that disposal, and
  - (d) under that transaction, he pays a manufactured dividend which is representative of a dividend on those United Kingdom equities.
- (5) For the purposes of capital gains tax, a loss shall be treated as accruing to the person on the date on which the chargeable gain mentioned in Condition 1, 2 or 3 accrued to him.
- (6) The amount of that loss shall be equal to the lesser of—
- (a) the amount of that chargeable gain, and
  - (b) the adjusted amount.
- (7) In subsection (6) above “the adjusted amount” means—
- AB
- where—
- A is the lesser of—
- (a) the amount of the manufactured dividend paid, and
  - (b) the amount of the dividend of which the manufactured dividend is representative; and
- B is an amount equal to so much of the manufactured dividend paid as is allowable to the person as a deduction for the purposes of income tax under paragraph 2A of Schedule 23A to the Taxes Act.
- (8) But that loss shall not be deductible except from the chargeable gain mentioned in Condition 1, 2 or 3.
- (9) For the purposes of this section “manufactured dividend” has the same meaning as in paragraph 2 of Schedule 23A to the Taxes Act; and any reference to a manufactured dividend being paid—
- (a) includes a reference to a payment falling by virtue of section 737A(5) of that Act to be treated for the purposes of Schedule 23A as if it were made, but

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- (b) does not include a reference to a payment falling by virtue of section 736B(2) of that Act to be treated for the purposes of that Schedule as if it were made.
- (10) For the purposes of this section the cases where there is a repurchase agreement are the following—
- (a) any case falling within subsection (1) of section 730A of the Taxes Act, and
  - (b) any case which would fall within that subsection if the sale price and the repurchase price were different;
- and, in any such case, any reference to the interim holder shall be construed accordingly.
- (11) In this section “stock lending arrangement” has the same meaning as in section 263B of this Act; and, in relation to any such arrangement, any reference to the borrower shall be construed accordingly.
- (12) In this section “United Kingdom equities” has the meaning given by paragraph 1 (1) of Schedule 23A to the Taxes Act.]

#### Textual Amendments

**F101** S. 263D inserted (with effect in accordance with Sch. 24 para. 3(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 24 para. 3\(1\)](#)

#### **264 Relief for local constituency associations of political parties on reorganisation of constituencies.**

- (1) In this section “relevant date” means the date of coming into operation of an Order in Council under the <sup>M15</sup>Parliamentary Constituencies Act 1986 (orders specifying new parliamentary constituencies) and, in relation to any relevant date—
- (a) “former parliamentary constituency” means an area which, for the purposes of parliamentary elections, was a constituency immediately before that date but is no longer such a constituency after that date; and
  - (b) “new parliamentary constituency” means an area which, for the purposes of parliamentary elections, is a constituency immediately after that date but was not such a constituency before that date.
- (2) In this section “local constituency association” means an unincorporated association (whether described as an association, a branch or otherwise) whose primary purpose is to further the aims of a political party in an area which at any time is or was the same or substantially the same as the area of a parliamentary constituency or 2 or more parliamentary constituencies and, in relation to any relevant date—
- (a) “existing association” means a local constituency association whose area was the same, or substantially the same, as the area of a former parliamentary constituency or 2 or more such constituencies; and
  - (b) “new association” means a local constituency association whose area is the same, or substantially the same, as the area of a new parliamentary constituency or 2 or more such constituencies.
- (3) For the purposes of this section, a new association is a successor to an existing association if any part of the existing association’s area is comprised in the new association’s area.

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- (4) In any case where, before, on or after a relevant date—
- (a) an existing association disposes of land to a new association which is a successor to the existing association, or
  - (b) an existing association disposes of land to a body (whether corporate or unincorporated) which is an organ of the political party concerned and, as soon as practicable thereafter, that body disposes of the land to a new association which is a successor to the existing association,
- the parties to the disposal or, where paragraph (b) above applies, to each of the disposals, shall be treated for the purposes of tax on chargeable gains as if the land disposed of were acquired from the existing association or the body making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss accrued to that association or body.
- (5) In a case falling within subsection (4) above, the new association shall be treated for the purposes of Schedule 2 as if the acquisition by the existing association of the land disposed of as mentioned in that subsection had been the new association's acquisition of it.
- (6) In any case where—
- (a) before, on or after a relevant date, an existing association disposes of any land which was used and occupied by it for the purposes of its functions, and
  - (b) the existing association transfers the whole or part of the proceeds of the disposal to a new association which is a successor to the existing association,
- then, subject to subsection (7) below, this Act (and, in particular, the provisions of sections 152 to 158) shall have effect as if, since the time it was acquired by the existing association, the land disposed of had been the property of the new association and, accordingly, as if the disposal of it had been by the new association.
- (7) If, in a case falling within subsection (6) above, only part of the proceeds of the disposal is transferred to the new association, that subsection shall apply—
- (a) as if there existed in the land disposed of as mentioned in paragraph (a) of that subsection a separate asset in the form of a corresponding undivided share in that land, and subject to any necessary apportionments of consideration for an acquisition or disposal of, or of an interest in, that land; and
  - (b) as if the references in that subsection (other than paragraph (a) thereof) to the land disposed of and the disposal of it were references respectively to the corresponding undivided share referred to in paragraph (a) above and the disposal of that share;
- and for this purpose a corresponding undivided share in the land disposed of is a share which bears to the whole of that land the same proportion as the part of the proceeds transferred bears to the whole of those proceeds.
- (8) In this section “political party” means a political party which qualifies for exemption under section 24 of the <sup>M16</sup>Inheritance Tax Act 1984 (gifts to political parties).

#### Marginal Citations

**M15** 1986 c. 56.

**M16** 1984 c. 51.

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## 265 Designated international organisations.

- (1) Where—
- (a) the United Kingdom or any of the Communities is a member of an international organisation; and
  - (b) the agreement under which it became a member provides for exemption from tax, in relation to the organisation, of the kind for which provision is made by this section;
- the Treasury may by order designate that organisation for the purposes of this section.
- (2) The Treasury may by order designate any of the Communities or the European Investment Bank for the purposes of this section.
- (3) Where an organisation has been designated for the purposes of this section, then any security issued by the organisation shall be taken, for the purposes of [F102this Act], to be situated outside the United Kingdom.

### Textual Amendments

**F102** Words in s. 265(3) substituted (with effect in accordance with Sch. 4 para. 10(1) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 4 para. 3\(2\)](#)

## 266 Inter-American Development Bank.

A security issued by the Inter-American Development Bank shall be taken for the purposes of this Act to be situated outside the United Kingdom.

## 267 Sharing of transmission facilities.

- (1) This section applies to any agreement relating to the sharing of transmission facilities—
- (a) to which the parties are national broadcasting companies,
  - (b) which is entered into on or after 25th July 1991 (the day on which the <sup>M17</sup>Finance Act 1991 was passed) and before 1st January 1992 or such later date as may be specified for the purposes of this paragraph by the Secretary of State, and
  - (c) in relation to which the Secretary of State has certified that it is expedient that this section should apply.
- (2) Where under an agreement to which this section applies one party to the agreement disposes of an asset to another party to the agreement, both parties shall be treated for the purposes of corporation tax on chargeable gains as if the asset acquired by the party to whom the disposal is made were acquired for a consideration of such amount as would secure that on the other's disposal neither a gain nor a loss would accrue to that other.
- (3) Where under an agreement to which this section applies one party to the agreement disposes of an asset to another party to the agreement and the asset is one which the party making the disposal acquired on a part disposal by the party to whom the disposal under the agreement is made, then in applying subsection (2) above—
- (a) section 42 shall be deemed to have had effect in relation to the part disposal with the omission of subsection (4),



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- (b) the amount or value of the consideration for the part disposal shall be taken to have been nil, and
  - (c) if the disposal under the agreement is one to which section 35(2) applies, the market value of the asset on 31st March 1982 shall be taken to have been nil.
- (4) In this section “national broadcasting company” means a body corporate engaged in the broadcasting for general reception by means of wireless telegraphy of radio or television services or both on a national basis.

**Marginal Citations**

M17 1991 c. 31.

**268 Decorations for valour or gallant conduct.**

A gain shall not be a chargeable gain if accruing on the disposal by any person of a decoration awarded for valour or gallant conduct which he acquired otherwise than for consideration in money or money's worth.

**269 Foreign currency for personal expenditure.**

A gain shall not be a chargeable gain if accruing on the disposal by an individual of currency of any description acquired by him for the personal expenditure outside the United Kingdom of himself or his family or dependants (including expenditure on the provision or maintenance of any residence outside the United Kingdom).

**270 Chevening Estate.**

The enactments relating to capital gains tax (apart from this section) shall not apply in respect of property held on the trusts of the trust instrument set out in the Schedule to the<sup>M18</sup>Chevening Estate Act 1959.

**Marginal Citations**

M18 1959 c. 49.

**271 Other miscellaneous exemptions.**

- (1) The following gains shall not be chargeable gains—
- (a) gains accruing on the disposal of stock—
    - [<sup>F103</sup>(i) transferred, in pursuance of any Act of Parliament, to accounts in the books of the Bank of England in the name of the Treasury or the National Debt Commissioners;
    - (ia) transferred, in pursuance of any Act of Parliament, to the Treasury or the National Debt Commissioners and in respect of which the Treasury or those Commissioners are entered as holder in the registers kept by the Registrar of Government Stock; or]
    - (ii) belonging to the Crown, in whatever name it may stand in the books of the Bank of England [<sup>F104</sup>or in the registers kept by the Registrar of Government Stock];

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- (b) any gain accruing to a person from his acquisition and disposal of assets held by him as part of a fund mentioned in section 613(4) of the Taxes Act (Parliamentary pension funds) or of which income is exempt from income tax under section 614(1) of that Act (social security supplementary schemes);
- [<sup>F105</sup>(c) any gain accruing to a person from his acquisition and disposal of assets held by him as part of a fund—
  - (i) mentioned in section 614(2) of the Taxes Act,
  - (ii) to which section 615(3) of the Taxes Act applies, or
  - (iii) mentioned in section 648, 649, 650, 651 or 653 of ITEPA 2003;]
- (d) any gain accruing to a person from his acquisition and disposal of assets held by him as part of any fund maintained for the purpose mentioned in subsection (5)(b) of section 620 or subsection (5) of section 621 of the Taxes Act under a scheme for the time being approved under that subsection;
- (e) any gain accruing on the disposal by the trustees of any settled property held on trusts in accordance with directions which are valid and effective under section 9 of the <sup>M19</sup>Superannuation and Trust Funds (Validation) Act 1927 (trust funds for the reduction of the National Debt);
- (f) any gain accruing to a consular officer or employee, within the meaning of [<sup>F106</sup>section 771 of ITTOIA 2005], of any foreign state to which that section applies on the disposal of assets which at the time of the disposal were situated outside the United Kingdom;
- (g) any gain accruing to a person from his disposal of investments if, or to [<sup>F107</sup>the extent] that, those investments were held by him or on his behalf for the purposes of a scheme which at the time of the disposal is an exempt approved scheme;
- (h) any gain accruing to a person on his disposal of investments held by him for the purposes of an approved personal pension scheme;
- (j) any gain accruing to a unit holder on his disposal of units in an authorised unit trust which is also an approved personal pension scheme or is one to which section 592(10) of the Taxes Act applies.

In this subsection “exempt approved scheme” and “approved personal pension scheme” have the same meanings as in Part XIV of the Taxes Act.

- (2) Where a claim is made in that behalf, a gain which accrues to a person on the disposal of investments shall not be a chargeable gain for the purposes of capital gains tax if, or to [<sup>F108</sup>the extent] that, those investments were held by him or on his behalf for the purposes of a fund to which section 608 of the Taxes Act applies.

A claim under this subsection shall not be allowed unless <sup>F109</sup>... the terms on which benefits are payable from the fund have not been altered since 5th April 1980.

- (3) A local authority, a local authority association and a health service body shall be exempt from capital gains tax.

In this subsection “local authority association” and “health service body” have the meanings given by sections 519 and 519A of the Taxes Act respectively.

- (4) Any [<sup>F110</sup>interest] to which [<sup>F111</sup>section 702 of ITTOIA 2005 (certified SAYE savings arrangements)] applies shall be disregarded for all purposes of the enactments relating to capital gains tax.

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In any case where there is a transfer to which section 216 applies, this subsection shall have effect in relation to any [<sup>F110</sup>interest] payable after the transfer under a [<sup>F112</sup>savings arrangement] which immediately before the transfer was a [<sup>F113</sup>certified SAYE savings arrangement] notwithstanding that it ceased to be such a [<sup>F114</sup>arrangement] by reason of the transfer.

[<sup>F115</sup>In this subsection “certified SAYE savings arrangement” has the meaning given by section 703 of ITTOIA 2005.]

- (5) A signatory to the Operating Agreement made pursuant to the Convention on the International Maritime Satellite Organisation which came into force on 16th July 1979, other than a signatory designated for the purposes of the Agreement by the United Kingdom in accordance with the Convention, shall be exempt from capital gains tax in respect of any payment received by that signatory from the Organisation in accordance with the Agreement.
- (6) The following shall, on a claim made in that behalf to the Board, be exempt from tax in respect of all chargeable gains—
  - (a) the Trustees of the British Museum and the Trustees of the [<sup>F116</sup>Natural History Museum]; and
  - (b) an Association within the meaning of section 508 of the Taxes Act (scientific research organisations).
- (7) The Historic Buildings and Monuments Commission for England, the Trustees of the National Heritage [<sup>F117</sup>Memorial Fund and the][<sup>F118</sup>National Endowment for Science, Technology and the Arts]<sup>F119</sup> ... <sup>F120</sup> ... shall be exempt from tax in respect of chargeable gains<sup>F121</sup> ...
- (8) There shall be exempt from tax any chargeable gains accruing to the issue department of the Reserve Bank of India constituted under an Act of the Indian legislature called the Reserve Bank of India Act 1934, or to the issue department of the State Bank of Pakistan constituted under certain orders made under section 9 of the <sup>M20</sup>Indian Independence Act 1947.
- <sup>F122</sup>(9) .....
- (10) In subsections (1)(g) and (h) and (2) above “investments” includes futures contracts and options contracts; and paragraph 7(3)(d) of Schedule 22 to the Taxes Act shall be construed accordingly.
- (11) For the purposes of subsection (10) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.
- [<sup>F123</sup>(12) Subsection (1)(b), (c), (d), (g) and (h) and subsection (2) above do not apply to gains accruing to a person from the acquisition and disposal by him of assets held as a member of a property investment LLP.]

#### Textual Amendments

**F103** S. 271(1)(a)(i)(ia) substituted for s. 271(1)(a)(i) (15.11.2004) by [The Government Stock \(Consequential and Transitional Provision\) \(No.3\) Order 2004 \(S.I. 2004/2744\)](#), art. 1, **Sch. para. 3(2)** (a) (with art. 3)

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- F104** Words in s. 271(1)(a)(ii) inserted (15.11.2004) by [The Government Stock \(Consequential and Transitional Provision\) \(No.3\) Order 2004 \(S.I. 2004/2744\)](#), art. 1, **Sch. para. 3(2)(b)** (with art. 3)
- F105** S. 271(1)(c) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 6 para. 218** (with Sch. 7)
- F106** Words in s. 271(1)(f) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 445(2)** (with Sch. 2)
- F107** Words in s. 271(1)(g) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 20 para. 63(1)**
- F108** Words in s. 271(2) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 20 para. 63(1)**
- F109** Words in s. 271(2) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), Sch. 20 para. 63(2), **Sch. 41 Pt. V(10)**
- F110** Word in s. 271(4) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 445(3)(a)** (with Sch. 2)
- F111** Words in s. 271(4) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 445(3)(b)** (with Sch. 2)
- F112** Words in s. 271(4) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 445(3)(c)** (with Sch. 2)
- F113** Words in s. 271(4) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 445(3)(d)** (with Sch. 2)
- F114** Word in s. 271(4) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 445(3)(e)** (with Sch. 2)
- F115** Words in s. 271(4) inserted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 445(3)(f)** (with Sch. 2)
- F116** Words in s. 271(6)(a) substituted (1.9.1992) by 1992 c. 44, s. 11(2), **Sch. 8 Pt. I para. 1(1)(2)(9)**; S.I. 1992/1874, **art.2**
- F117** Words in s. 271(7) substituted (with effect in accordance with s. 46(5)(a) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **s. 46(3)(a)** (with s. 46(7))
- F118** Words in s. 271(7) inserted (2.7.1998) by [National Lottery Act 1998 \(c. 22\)](#), **ss. 24(2), 27(4)(b)**
- F119** Words in s. 271(7) repealed (with effect in accordance with s. 46(5)(b) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), s. 46(3)(b), **Sch. 11 Pt. 2(12)** (with s. 46(7))
- F120** Words in s. 271(7) repealed (with effect in accordance with s. 46(5)(a) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), s. 46(3)(c), **Sch. 11 Pt. 2(12)** (with s. 46(7))
- F121** Words in s. 271(7) repealed: (with effect in accordance with s. 46(5)(b) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), s. 46(3)(d), **Sch. 11 Pt. 2(12)** (with s. 46(7)); (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), Sch. 42 Pt. 3 (with Sch. 36)
- F122** S. 271(9) repealed (with effect in accordance with Sch. 10 para. 7(1) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), Sch. 10 para. 5(2), **Sch. 18 Pt. VI(10)**; S.I. 1997/991, art. 2
- F123** S. 271(12) inserted (with effect in accordance with s. 76(1) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 76(2), **Sch. 25 para. 4** (with Sch. 3)

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

- C18** S. 271 extended (12.1.2000) by [Greater London Authority Act 1999 \(c. 29\)](#), **s. 419(1)(2)(b)**, 425(2); S.I. 1999/3434, art. 2

#### Marginal Citations

- M19** 1927 c. 41.

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**Status:** Point in time view as at 22/03/2006.

**Changes to legislation:** Taxation of Chargeable Gains Act 1992, Part VII is up to date with all changes known to be in force on or before 04 July 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)

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**M20** 1947 c. 30.

**Status:**

Point in time view as at 22/03/2006.

**Changes to legislation:**

Taxation of Chargeable Gains Act 1992, Part VII is up to date with all changes known to be in force on or before 04 July 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.