



# 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) .....

[<sup>F9</sup>(6A) Where an individual has determined, by giving notice under subsection (5)(a), that a residence is the individual's main residence, that determination does not cease to be effective at any time by reason only of the fact that, at that time, another of the individual's residences is treated by section 222B(1) as not being occupied as a residence (or, having been so treated, is no longer so treated).]

(7) In this section and sections [<sup>F10</sup>222A] 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>F11</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>F12</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>F13</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>F14</sup>or civil partner] by reason of [<sup>F15</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

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- 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
- (b) under a contract entered into at arm's length and requiring him or his spouse <sup>[F14]</sup>or civil partner] to carry on a particular trade, profession or vocation, he or his spouse <sup>[F14]</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 <sup>[F16]</sup>a charitable company].
- (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>[F17]</sup>or civil partner] has a material interest; or
- (b) any person or persons together with whom the borrower or his spouse <sup>[F17]</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>[F18]</sup>the meanings given by Chapter 2 of Part 3 of ITEPA 2003].]
- (9) <sup>[F19]</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>[F20]</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.

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### 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\(10\)](#)
- 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** S. 222(6A) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 2\(a\)](#)
- F10** Word in s. 222(7) substituted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 2\(b\)](#)
- F11** 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\(3\)](#)
- F12** 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\(7\)](#)
- F13** 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\(3\)](#)
- F14** 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\(4\)\(a\)](#)
- F15** 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\(4\)\(b\)](#)
- F16** Words in s. 222(8B)(b)(iii) substituted (with effect in accordance with S.I. 2012/736, art. 8) by [Finance Act 2010 \(c. 13\)](#), [Sch. 6 paras. 13\(2\)](#), 34(2); S.I. 2012/736, art. 8
- F17** 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\(5\)](#)
- F18** 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)
- F19** 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\(4\)\(a\)](#)
- F20** 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\(4\)\(b\)](#)

### Modifications etc. (not altering text)

- C1** S. 222(8A)-(8D) applied by [Inheritance Tax Act 1984 \(c. 51\)](#), s. 8H(7) (as inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 9\(4\)](#))

## [<sup>F21</sup>222A] **Determination of main residence: non-resident CGT disposals**

- (1) This section applies where—
- (a) an individual (“P”) makes a disposal of, or of an interest in—

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- (i) a dwelling-house, or part of a dwelling-house, which was at any time in P's period of ownership occupied by P as a residence, or
  - (ii) land (as mentioned in section 222(1)(b)) which P had for P's own occupation and enjoyment with that residence as its garden or grounds, and
- [<sup>F22</sup>(b) the disposal is—
- (i) a disposal on which a residential property gain (as defined by Schedule 1B) accrues which is chargeable to capital gains tax because of section 1A(3)(b), or
  - (ii) a disposal on which a loss accrues but is one which, had a gain accrued, would be within sub-paragraph (i).]

In the remainder of this section the residence concerned is referred to as “the dwelling-house”.

- (2) So far as it is necessary for the purposes of section 222, P may determine, by a notice under this section, which of 2 or more residences (of which one is the dwelling-house) was P's main residence for any period within P's period of ownership of the dwelling-house.
- (3) A notice under this section may vary, as respects any period within P's period of ownership of the dwelling-house, a notice previously given under section 222(5)(a).  
See also subsections (4) and (7).
- (4) A notice under this section may not vary a notice previously given under section 222(5)(a) as respects any period for which the previous notice had the effect of determining whether or not a disposed of residence was P's main residence.
- (5) In subsection (4) “disposed of residence” means one of P's residences which was disposed of (in whole or in part) before the date of the disposal mentioned in subsection (1)(a).
- (6) A notice under this section—
  - (a) must be given in [<sup>F23</sup>the return under Schedule 2 to the Finance Act 2019] in respect of the disposal mentioned in subsection (1)(a), and
  - (b) may not subsequently be varied, whether by a notice under this section or section 222(5)(a).
- (7) Where a notice under this section affects both P and an individual (“X”) who was, in the period to which the notice relates (“the relevant period”), P's spouse or civil partner living with P—
  - (a) in a case where each of P and X is required to make [<sup>F24</sup>a return under Schedule 2 to the Finance Act 2019] in respect of the disposal of an interest in the dwelling-house, notice given by P under this section is effective as respects any part of the relevant period when P and X were living together as spouses or civil partners only if notice to the same effect is also given under this section by X in respect of that period;
  - (b) in any other case, notice given by P under this section is effective as respects any part of the relevant period when P and X were living together as spouses or civil partners only if it is accompanied by written notification from X agreeing to the terms of the notice in respect of that period.
- (8) Nothing in subsection (2) affects the application of section 222(5) in relation to P.

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### Textual Amendments

- F21** Ss. 222A-222C inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 3](#)
- F22** S. 222A(1)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 72](#)
- F23** Words in s. 222A(6)(a) substituted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 26\(2\)\(a\)](#)
- F24** Words in s. 222A(7)(a) substituted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 26\(2\)\(b\)](#)

## 222B Non-qualifying tax years

- (1) For the purposes of sections 222 to 226 the dwelling-house or part of a dwelling-house mentioned in section 222(1) is treated as not being occupied as a residence by the individual so mentioned (“P”) at any time in P’s period of ownership which falls within—
- (a) a non-qualifying tax year, or
  - (b) a non-qualifying partial tax year.

In the remainder of this section the dwelling-house or part of a dwelling-house is referred to as “the dwelling-house”.

- (2) Except where the disposal mentioned in section 222(1) is [<sup>F25</sup>a disposal falling within section 222A(1)(b) (non-resident disposals)], subsection (1) does not have effect in respect of any tax year or partial tax year before the tax year 2015-16.
- (3) A tax year the whole of which falls within P’s period of ownership is “a non-qualifying tax year” in relation to the dwelling-house if—
- (a) neither P nor P’s spouse or civil partner was resident for that tax year in the territory in which the dwelling-house is situated, and
  - (b) the day count test was not met by P with respect to the dwelling-house for that tax year (see section 222C).
- (4) A partial tax year is “a non-qualifying partial tax year” in relation to the dwelling-house if—
- (a) neither P nor P’s spouse or civil partner was resident for the tax year in question in the territory in which the dwelling-house is situated, and
  - (b) the day count test was not met by P with respect to the dwelling-house for that partial tax year.
- (5) Where part only of a tax year falls within P’s period of ownership, that part is a “partial tax year” for the purposes of this section.
- (6) For the purposes of this section an individual is resident in a territory outside the United Kingdom (“the overseas territory”) for a tax year (“year X”) in relation to which condition A or B is met.
- (7) Condition A is that the individual is, in respect of a period or periods making up more than half of year X, liable to tax in the overseas territory under the law of that territory by reason of the individual’s domicile or residence.

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- (8) Condition B is that the individual would be resident in the overseas territory for year X in accordance with the statutory residence test in Part 1 of Schedule 45 to the Finance Act 2013, if in Parts 1 and 2 of that Schedule—
- (a) any reference to the United Kingdom (however expressed) were read as a reference to the overseas territory,
  - (b) “overseas” meant anywhere outside that territory, and
  - (c) in paragraph 26 (meaning of “work”), sub-paragraphs (2) to (4), (6) and (7) were disregarded.
- (9) In applying the statutory residence test in accordance with subsection (8), any determination of whether—
- (a) the individual was resident in the overseas territory for a tax year preceding year X, or
  - (b) another individual is resident in the overseas territory for year X,
- is to be made in accordance with the statutory residence test, as modified by subsection (8).
- (10) [<sup>F26</sup>Section 271ZA(2)] (visiting forces etc) is to be disregarded in determining for the purposes of this section whether or not an individual is resident in the United Kingdom.
- (11) Subsection (1) is subject to—
- (a) section 222(8) (job-related accommodation), and
  - (b) section 223(3) (absence reliefs).

#### Textual Amendments

- F21** Ss. 222A-222C inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 3](#)
- F25** Words in s. 222B(2) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 73\(2\)](#)
- F26** Words in s. 222B(10) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 73\(3\)](#)

### 222C Day count test

- (1) This section explains how P meets the day count test (see section 222B) with respect to the dwelling-house or part of a dwelling-house mentioned in section 222(1) for a full or partial tax year.

In the remainder of this section the dwelling-house or part of a dwelling-house is referred to as “the dwelling-house”.

- (2) P meets that test for a tax year with respect to the dwelling-house if, during that year, P spends at least 90 days in one or more qualifying houses.
- (3) P meets that test for a partial tax year with respect to the dwelling-house if, during that partial tax year, P spends at least the relevant number of days in one or more qualifying houses.
- (4) To find the relevant number of days for the purposes of subsection (3), multiply 90 days by the relevant fraction and round up the result to the nearest whole number of days if necessary.

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(5) The relevant fraction is—

X Y

where—

“X” is the number of days in the partial tax year;

“Y” is the number of days in the tax year.

- (6) For the purposes of subsections (2) and (3) the days need not be consecutive, and days spent in different qualifying houses may be aggregated.
- (7) A day spent by P's spouse or civil partner in a dwelling-house or part of a dwelling-house which is a qualifying house in relation to P counts as a day spent by P in the qualifying house (but no day is to be counted twice as a result of this subsection).
- (8) For the purposes of this section, a day counts as a day spent by an individual in a qualifying house if—
- (a) the individual is present at the house at the end of the day, or
  - (b) the individual—
    - (i) is present in the house for some period during the day, and
    - (ii) the next day, has stayed overnight in the house.
- (9) For the purposes of this section—
- (a) the dwelling-house is a qualifying house in relation to P, and
  - (b) any other dwelling-house or part of a dwelling-house which is situated in the same territory as the dwelling-house is a qualifying house in relation to P at any particular time if at that time any of the following has an interest in it—
    - (i) P,
    - (ii) an individual who is P's spouse or civil partner at that time, and
    - (iii) an individual who is P's spouse or civil partner at the time of disposal of the dwelling-house.
- (10) In this section “partial tax year” has the meaning given by section 222B(5).]

#### **Textual Amendments**

**F21** Ss. 222A-222C inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 3](#)

### **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 [<sup>F27</sup>18 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



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or main residence, but inclusive of the last [<sup>F28</sup>18 months] of the period of ownership in any event, divided by

(b) the length of the period of ownership.

(3) For the purposes of [<sup>F29</sup>sections 222(5) and 222A and] 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 [<sup>F30</sup>or lived with a spouse or civil partner who worked in such an employment or office], 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 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, [<sup>F31</sup>and in addition,]

[<sup>F32</sup>(d) any period of absence not exceeding 4 years (or periods of absence which together did not exceed 4 years) throughout which the individual lived with a spouse or civil partner in respect of whom paragraph (c) applied in respect of that period (or periods),]

shall be treated as if in that period of absence the dwelling-house or the part of the dwelling-house [<sup>F33</sup>were occupied by the individual as a residence][<sup>F34</sup>if conditions A and B are met.]

[<sup>F35</sup>(3A) Condition A is that before the period there was a time when the dwelling-house was the individual's only or main residence.

(3B) Condition B is that after the period—

(a) in a case falling within paragraph (a), (b), (c) or (d) of subsection (3), there was a time when the dwelling-house was the individual's only or main residence,

(b) in a case falling within paragraph (b), (c) or (d) of that subsection, the individual was prevented from resuming residence in the dwelling-house in consequence of the situation of the individual's place of work or a condition imposed by the terms of the individual's employment requiring the individual to reside elsewhere, being a condition reasonably imposed to secure the effective performance by the employee of his duties, or

(c) in a case falling within paragraph (b), (c) or (d) of that subsection, the individual lived with a spouse or civil partner to whom paragraph (b) of this subsection applied.]

(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>F36</sup>... ; and

(b) £40,000.

[<sup>F37</sup>(5) .....

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<sup>F37</sup>(6) .....

<sup>F38</sup>(7) In this section “period of ownership”—

- (a) does not include any period before 31 March 1982, and
- (b) where the whole or part of the gain to which section 222 applies is [<sup>F39</sup>a residential property gain (as defined by Schedule 1B) which is chargeable to capital gains tax because of section 1A(3)(b)], does not include any period before 6 April 2015 (but see subsection (7A)).

(7A) Paragraph (b) of the definition of “period of ownership” does not apply in a case where [<sup>F40</sup>paragraph 8 or 14 of Schedule 4AA applies] (the individual has made an election for the retrospective basis of computation to apply).

(7B) In this section “period of absence” means a period during which the dwelling-house or the part of the dwelling-house was not occupied by the individual as a residence.]

<sup>F41</sup>(8) This section is subject to—

- (a) section 224 (amount of relief: further provisions),
  - [<sup>F42</sup>(aa) section 225D (private residence of adult placement carer),]<sup>F43</sup> ...
  - [<sup>F44</sup>(ab) section 225E (disposals by disabled persons or persons in care homes etc), and]
- (b) section 226A (private residence relief: cases where relief obtained under section 260).]

### Textual Amendments

- F27** Words in s. 223(1) substituted (with effect in accordance with s. 58(4) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 58\(2\)\(a\)](#)
- F28** Words in s. 223(2)(a) substituted (with effect in accordance with s. 58(4) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 58\(2\)\(a\)](#)
- F29** Words in s. 223(3) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 9 para. 4\(2\)\(a\)](#)
- F30** Words in s. 223(3)(b) inserted (with effect in accordance with art. 7(5) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\), arts. 1\(1\), 7\(2\)](#)
- F31** Words in s. 223(3)(c) inserted (with effect in accordance with art. 7(5) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\), arts. 1\(1\), 7\(3\)](#)
- F32** S. 223(3)(d) inserted (with effect in accordance with art. 7(5) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\), arts. 1\(1\), 7\(4\)](#)
- F33** Words in s. 223(3) substituted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 9 para. 4\(2\)\(b\)](#)
- F34** Words in s. 223(3) substituted (with effect in accordance with art. 8(4) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\), arts. 1\(1\), 8\(2\)](#)
- F35** S. 223(3A)(3B) inserted (with effect in accordance with art. 8(4) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\), arts. 1\(1\), 8\(3\)](#)
- F36** 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\(15\)](#)
- F37** S. 223(5)(6) omitted (with effect in accordance with s. 58(4) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\), s. 58\(2\)\(b\)](#)
- F38** S. 223(7)-(7B) substituted for s. 223(7) (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 9 para. 4\(3\)](#)

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- F39** Words in s. 223(7)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 1 para. 74\(2\)](#)
- F40** Words in s. 223(7A) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 1 para. 74\(3\)](#)
- F41** 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\(3\)](#)
- F42** S. 223(8)(aa) inserted (with effect in accordance with s. 16(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 16\(1\)](#)
- F43** Word in s. 223(8) omitted (with effect in accordance with s. 58(4) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\), s. 58\(2\)\(c\)](#)
- F44** S. 223(8)(ab) inserted (with effect in accordance with s. 58(4) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 58\(2\)\(c\)](#)

### [<sup>F45</sup>223A Amount of relief: non-resident CGT disposals

- (1) This section applies where—
  - (a) the individual mentioned in section 223(1) (“P”) acquired the asset to which the gain mentioned in section 222(1) is attributable before 6 April 2015, and
  - (b) P’s period of ownership for the purposes of section 223 begins on that date because of section 223(7)(b).
- (2) Times before 6 April 2015 are to be ignored in determining whether or not condition A in section 223 is met in relation to a period of absence, unless P elects that this subsection is not to apply in relation to the period.
- (3) An election under subsection (2)—
  - (a) must specify which day before 6 April 2015 P relies on in relation to the period of absence for the purpose of meeting condition A in section 223, and
  - (b) must be made in [<sup>F46</sup>the return under Schedule 2 to the Finance Act 2019] in respect of the disposal.
- (4) Where P has made an election under subsection (2), section 223 applies as if relevant prior periods of absence counted against the maximum periods (and maximum aggregate periods) specified in subsection (3)(a), (c) and (d) of that section.
- (5) In relation to a maximum period (or maximum aggregate period) specified in paragraph (a), (c) or (d) of section 223(3), “relevant prior period of absence” means a period of absence which would have counted against that maximum period (or maximum aggregate period) if the bridge period were included in the period of ownership.
- (6) In subsection (5) “the bridge period” means the period beginning with the day specified in the election and ending with 5 April 2015.
- (7) In this section “period of absence” has the same meaning as in section 223.]

#### Textual Amendments

- F45** S. 223A inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 9 para. 5](#)
- F46** Words in s. 223A(3)(b) substituted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 2 para. 26\(3\)](#)

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## 224 Amount of relief: further provisions.

- (1) If the gain [<sup>F47</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 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>F48</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.

[<sup>F49</sup>(4) This section is subject to section 225D (private residence of adult placement carer).]

### Textual Amendments

- F47** 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\(2\)](#)
- F48** 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](#)
- F49** S. 224(4) inserted (with effect in accordance with s. 16(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 16\(2\)](#)

## 225 Private residence occupied under terms of settlement.

- [<sup>F50</sup>(1)] Sections 222 to 224 shall also apply in relation to a gain accruing to [<sup>F51</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>F52</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 [<sup>F53</sup>("B")] 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>F54</sup>the trustees] except in relation to [<sup>F55</sup>the matters dealt with in subsection (2),]
  - (b) the notice which may be given to [<sup>F56</sup>an officer of the Board] under section 222(5)(a) shall be a joint notice by [<sup>F57</sup>the trustees] and [<sup>F58</sup>B, and]
  - [<sup>F59</sup>(c) the notice which may be given by the trustees under section 222A is effective only if it is accompanied by written notification from B agreeing to the terms of the notice;]
- [<sup>F60</sup>but section 223 (as so applied) shall apply only on the making of a claim by the trustees].
- [<sup>F61</sup>(2) In sections 222 to 224, as applied by subsection (1), references to the individual, in relation to—

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- (a) the occupation of the dwelling-house or part of the dwelling-house,
  - (b) residence in a territory, or
  - (c) meeting the day count test,
- are to be taken as references to B.]

#### Textual Amendments

- F50** S. 225 renumbered as s. 225(1) (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 6\(2\)](#)
- F51** 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\(2\)\(a\)](#)
- F52** 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\(2\)\(b\)](#)
- F53** Word in s. 225(1) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 6\(3\)\(a\)](#)
- F54** 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\(3\)](#)
- F55** Words in s. 225(1)(a) substituted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 6\(3\)\(b\)](#)
- F56** 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\(4\)\(a\)](#)
- F57** 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\(4\)\(b\)](#)
- F58** Words in s. 225(1)(b) substituted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 6\(3\)\(c\)](#)
- F59** S. 225(1)(c) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 6\(3\)\(d\)](#)
- F60** 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\(5\)](#)
- F61** S. 225(2) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 6\(4\)](#)

#### [<sup>F62</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.

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- (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 [<sup>F63</sup>the matters dealt with in paragraph (aa),]
  - <sup>F64</sup>(aa) [ in relation to the occupation of the dwelling-house or part of the dwelling-house, residence in a territory, or meeting the day count test, references to the individual are to be taken as references to a qualifying individual,]
  - (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 [<sup>F65</sup>and
    - (c) the notice which may be given by the personal representatives under section 222A is effective only if it is accompanied by written notification from the individual or individuals entitled to occupy the dwelling-house or part of the dwelling-house agreeing to the terms of the notice.]
- (6) But section 223 (as so applied) shall apply only on the making of a claim by the personal representatives.
- [ In subsection (5)(aa) “a qualifying individual” means an individual—
- <sup>F66</sup>(7) (a) who has a relevant entitlement, and
  - (b) by virtue of whom the first condition is met.]]

#### Textual Amendments

- F62** 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](#)
- F63** Words in s. 225A(5)(a) substituted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 7\(2\)\(a\)](#)
- F64** S. 225A(5)(aa) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 7\(2\)\(b\)](#)
- F65** S. 225A(5)(c) and preceding word inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 7\(2\)\(c\)](#)
- F66** S. 225A(7) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 7\(3\)](#)

#### [<sup>F67</sup>225B Disposals in connection with divorce, etc

- (1) Where an individual—
- (a) ceases to live with his spouse or civil partner in a dwelling-house or part of a dwelling-house which is their only or main residence, and



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- (b) subsequently disposes of, or of an interest in, the dwelling-house or part to the spouse or civil partner,  
then, if conditions A to C are met, sections 222 to 224 shall apply as if the dwelling-house or part continued to be the individual's only or main residence until the disposal.
- (2) Condition A is that the disposal mentioned in subsection (1)(b) is pursuant to—
- (a) an agreement between the individual and his spouse or civil partner made in contemplation of or otherwise in connection with the dissolution or annulment of the marriage or civil partnership, their judicial separation or the making of a separation order in respect of them, or their separation in other circumstances such that the separation is likely to be permanent, or
- (b) an order of a court—
- (i) made on granting an order or a decree of divorce or nullity of marriage, for the dissolution or annulment of the civil partnership, or for judicial separation,
- (ii) made in connection with the dissolution or annulment of the marriage or civil partnership or the parties' judicial separation and which is made at any time after the granting of such an order or decree,
- (iii) made at any time under section 22A, 23, 23A, 24 or 24A of the Matrimonial Causes Act 1973,
- (iv) made at any time under article 25 or 26 of the Matrimonial Causes (Northern Ireland) Order 1978,
- (v) made under section 8 of the Family Law (Scotland) Act 1985, including incidental orders made by virtue of section 14 of that Act, or
- (vi) made at any time under any provision of Schedule 5 to the Civil Partnership Act 2004 that corresponds to any of the provisions mentioned in paragraphs (iii) and (iv).
- (3) Condition B is that in the period between the individual ceasing to reside in the dwelling-house or part of the dwelling-house and the disposal to the spouse or civil partner, the dwelling-house or part continues to be the only or main residence of the spouse or civil partner.
- (4) Condition C is that the individual has not given notice under section 222(5) [<sup>F68</sup>or 222A] that another dwelling-house or part of a dwelling-house is to be treated as the individual's main residence for any part of that period.
- (5) Section 223 (as applied by this section) shall apply only on the making of a claim by the individual.]

#### Textual Amendments

**F67** S. 225B inserted (with effect in accordance with art. 9(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), **9(1)**

**F68** Words in s. 225B(4) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), **Sch. 9 para. 8**

#### [<sup>F69</sup>225C Sale of private residence under certain agreements with employer, etc

- (1) This section applies where—

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- (a) an individual disposes of, or of an interest in, a dwelling-house or a part of a dwelling-house which is the individual's only or main residence ("the initial disposal"),
  - (b) the individual does so as a consequence of a change to the situation of the individual's place of work or that of a co-owner of the dwelling-house or the interest, being a change that is required by the employer of the individual or the co-owner, and
  - (c) the initial disposal is under a home purchase agreement.
- (2) If—
- (a) under the terms of the agreement the individual receives, within three years of the initial disposal, a share of any profit made by the purchaser upon the purchaser's disposal of, or of an interest in, the dwelling-house or part of the dwelling-house, and
  - (b) the receipt of that sum would be treated (apart from this section) as a disposal falling within section 22 (disposal where capital sums derived from assets),
- that receipt shall be treated for the purposes of this Act as a gain attributable to the initial disposal but accruing to the individual at the time the sum is received.
- (3) In this section—
- “home purchase agreement” means an agreement—
    - (a) made with the employer or a person operating under an agreement with the employer (“the purchaser”),
    - (b) which includes a term entitling the individual to receive a share of any such profit as is mentioned in subsection (2)(a);
  - “co-owner”, in relation to any individual (“A”), means another individual who holds an interest jointly or in common with A, whether or not the interests of the co-owners are equal.]

#### Textual Amendments

**F69** S. 225C inserted (with effect in accordance with art. 10(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), **10(1)**

#### [<sup>F70</sup> 225D Private residence of adult placement carer

- (1) This section applies where a gain to which section 222 applies accrues to an individual (“A”) and, at any time during A's period of ownership, part of the dwelling-house was occupied by another person (“B”)—
- (a) in England and Wales, pursuant to an adult placement scheme,
  - (b) in Scotland, pursuant to arrangements which constitute or form part of an adult placement service involving the provision of accommodation for B, or
  - (c) in Northern Ireland, pursuant to arrangements made with an adult placement agency for the provision of accommodation for B.
- (2) For the purposes of this Part, in determining the periods during which the dwelling-house, or any part of the dwelling-house, was A's only or main residence, B's occupation of part of the dwelling-house pursuant to the scheme or arrangement is to be disregarded.



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- (3) For the purposes of section 224, the occupation of the part of the dwelling-house by B pursuant to the scheme or arrangement does not amount to the use of that part of the dwelling-house by A exclusively for the purpose of a trade, business, profession or vocation.
- (4) In this section—
- “adult placement agency” means an organisation or undertaking—
    - (a) that arranges for the provision of care and support (including accommodation) for persons in need, and
    - (b) in respect of which a requirement to register arises under Article 12 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003,
  - “adult placement scheme” means a scheme—
    - (a) under which an individual agrees with the person carrying on the scheme to provide care and support (including accommodation) to an adult who is in need of it, and
    - (b) in respect of which a requirement to register arises under section 11 of the Care Standards Act 2000, and
  - “adult placement service” has the meaning given by paragraph 11 of schedule 12 to the Public Services Reform (Scotland) Act 2010.]

#### Textual Amendments

**F70** S. 225D inserted (with effect in accordance with s. 16(4)(5) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 16\(3\)](#)

#### [<sup>F71</sup>225E Disposals by disabled persons or persons in care homes etc

- (1) This section applies where a gain to which section 222 applies accrues to an individual and—
  - (a) the conditions in subsection (2) are met, or
  - (b) the conditions in subsection (3) are met.
- (2) The conditions mentioned in subsection (1)(a) are that at the time of the disposal—
  - (a) the individual is a disabled person or a long-term resident in a care home, and
  - (b) the individual does not have any other relevant right in relation to a private residence.
- (3) The conditions mentioned in subsection (1)(b) are that at the time of the disposal—
  - (a) the individual's spouse or civil partner is a disabled person or a long-term resident in a care home, and
  - (b) neither the individual nor the individual's spouse or civil partner has any other relevant right in relation to a private residence.
- (4) Where this section applies, the references in section 223(1) and (2)(a) to 18 months are treated as references to 36 months.
- (5) An individual is a “long-term resident” in a care home at the time of the disposal if at that time the individual —
  - (a) is resident there, and

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- (b) has been resident there, or can reasonably be expected to be resident there, for at least three months.
- (6) An individual has “any other relevant right in relation to a private residence” at the time of the disposal if—
- (a) at that time—
    - (i) the individual owns or holds an interest in a dwelling-house or part of a dwelling-house other than that in relation to which the gain accrued, or
    - (ii) the trustees of a settlement own or hold an interest in a dwelling-house or part of a dwelling-house other than that in relation to which the gain accrued, and the individual is entitled to occupy that dwelling-house or part under the terms of the settlement, and
  - (b) section 222 would have applied to any gain accruing to the individual or trustees on the disposal at that time of, or of that interest in, that dwelling house or part (or would have applied if a notice under subsection (5) of that section [<sup>F72</sup>or under section 222A] had been given).
- (7) In the application of this section in relation to a gain to which section 222 applies by virtue of section 225 (private residence occupied under terms of settlement)—
- (a) the reference in subsection (1) of this section to an individual is to the trustees of the settlement;
  - (b) the references in subsections (2) to (6) of this section to the individual are to the person entitled under the terms of the settlement, as mentioned in section 225.
- (8) In this section—
- “care home” means an establishment that provides accommodation together with nursing or personal care;
  - “disabled person” has the meaning given by Schedule 1A to FA 2005.]

#### **Textual Amendments**

- F71** S. 225E inserted (with effect in accordance with s. 58(4) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 58\(2\)\(c\)](#)
- F72** Words in s. 225E(6)(b) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 9 para. 9](#)

## **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.

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

*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 19 June 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)*

(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>F73</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>F74</sup>spouse or civil partner] at any one time.

<sup>F75</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

**F73** 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)**

**F74** 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)**

**F75** 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>F76</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”),
- (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,

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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

**F76** 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 [<sup>F77</sup>508 of ITA 2007 (trustees' election in respect of income arising from heritage maintenance property)] 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.
- (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

**F76** 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](#)

**F77** Words in s. 226B(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 323](#) (with [Sch. 2](#))

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

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### *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 [<sup>F78</sup>the trustees of a settlement] 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
  - (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,

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- (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.

#### Textual Amendments

**F78** Words in s. 227(2) substituted (with effect in accordance with Sch. 12 para. 21(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 21\(1\)](#)

#### 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 [<sup>F79</sup>a beneficiary under the settlement] 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 [<sup>F80</sup>chargeable to capital gains tax or corporation tax on gains] 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 [<sup>F81</sup>whether a settlement 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 [<sup>F82</sup>same meaning as in section 165 (see section 165A)]; and “group” (except in the expression “trading group”) shall be construed in accordance with section 170.

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(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.

[<sup>F83</sup>(10) Chapter 6 of Part 5 of CTA 2010 (group relief: equity holders and profits or assets available for distribution) applies for the purposes of section 227(4) as if—

- (a) the trustees were a company, and
- (b) references to section 151(4)(a) and (b) of that Act were references to section 227(4) above.]

#### Textual Amendments

- F79** Words in s. 228(5)(b) substituted (with effect in accordance with Sch. 12 para. 22(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 22\(1\)](#)
- F80** Words in s. 228(6) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 75](#)
- F81** Words in s. 228(7) substituted (with effect in accordance with Sch. 12 para. 22(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 22\(2\)](#)
- F82** Words in s. 228(8) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 36](#)
- F83** S. 228(10) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 252](#) (with [Sch. 2](#))

#### 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
- (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.



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- (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)**

- C2** 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>F84</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—
- (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>F85</sup>or civil partner].
- (4) In such a case—



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- (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>F86</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>F87</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
  - (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

**F84** 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**

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- F85** 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**
- F86** 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**
- F87** 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>F88</sup>or Part 5 of ITA 2007]<sup>F89</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 [<sup>F90</sup>or Part 5 of ITA 2007] 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.

### Textual Amendments

- F88** Words in s. 231(1)(d) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 324** (with [Sch. 2](#))
- F89** 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)**
- F90** Words in s. 231(3)(c) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 324** (with [Sch. 2](#))

### Marginal Citations

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

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## **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 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);

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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
- (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—

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- (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
  - (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—
- (a) the first amount, and
  - (b) the second amount.
- (5) The first amount is—

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- (a) 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
  - (b) 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—
- (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).
- (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—
- (a) in subsection (5) above “all the bonds” read “the bonds concerned”,
  - (b) the second amount were reduced to whatever amount is just and reasonable, and
  - (c) the relevant amount were reduced accordingly.
- (8) Subsection (9) below applies where—
- (a) subsection (3) above applies (whether or not by virtue of subsection (7) above), and
  - (b) 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—
- (a) the second amount were reduced (or further reduced) to whatever amount is just and reasonable, and
  - (b) 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.
- (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).

**<sup>F91</sup>235 Information.**

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#### Textual Amendments

- F91** S. 235 omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, **Sch. para. 32**

### 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 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>F92</sup>[<sup>F93</sup>Share incentive] plans*

#### Textual Amendments

- F92** S. 236A and cross-heading inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), s. 48(1)
- F93** 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>F94</sup>share incentive] plans

Schedule 7C (which makes provision for roll-over relief where shares are transferred to [<sup>F95</sup>a Schedule 2][<sup>F94</sup>share incentive] plan) shall have effect.]

#### Textual Amendments

- F94** 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](#))

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**F95** Words in s. 236A substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 34, 89** (with Sch. 8 paras. 90-96)

*<sup>F96</sup>Employee shareholders*

**Textual Amendments**

**F96** Ss. 236B-236G and cross-heading inserted (1.9.2013) by Finance Act 2013 (c. 29), **Sch. 23 paras. 20, 38**; S.I. 2013/1755, art. 2

**<sup>F97</sup>236B Exemption for employee shareholder shares**

.....

**Textual Amendments**

**F97** Ss. 236B-236F omitted (with effect in accordance with s. 13(6)-(8) of the amending Act) by virtue of Finance Act 2017 (c. 10), **s. 13(4)**

**<sup>F97</sup>236C Only first £50,000 of shares under associated agreements to be exempt**

.....

**Textual Amendments**

**F97** Ss. 236B-236F omitted (with effect in accordance with s. 13(6)-(8) of the amending Act) by virtue of Finance Act 2017 (c. 10), **s. 13(4)**

**<sup>F97</sup>236D Shares not exempt if shareholder or connected person has material interest in company**

.....

**Textual Amendments**

**F97** Ss. 236B-236F omitted (with effect in accordance with s. 13(6)-(8) of the amending Act) by virtue of Finance Act 2017 (c. 10), **s. 13(4)**

**<sup>F97</sup>236E Identification of exempt employee shareholder shares**

.....

**Textual Amendments**

**F97** Ss. 236B-236F omitted (with effect in accordance with s. 13(6)-(8) of the amending Act) by virtue of Finance Act 2017 (c. 10), **s. 13(4)**



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## <sup>F97</sup> 236F Reorganisation of share capital involving employee shareholder shares

### Textual Amendments

**F97** Ss. 236B-236F omitted (with effect in accordance with s. 13(6)-(8) of the amending Act) by virtue of [Finance Act 2017 \(c. 10\), s. 13\(4\)](#)

## 236G Relinquishment of employment rights is not disposal of an asset

- (1) This section applies where an individual has acquired shares in consideration of entering into an [<sup>F98</sup>agreement by virtue of which the individual is an employee shareholder (see section 205A(1)(a) to (d) of the Employment Rights Act 1996)].
- (2) The individual is not to be regarded as disposing of an asset by reason of the individual ceasing to have, or not acquiring, the rights mentioned in section 205A of the Employment Rights Act 1996 (rights which an employee shareholder does not have) in consequence of entering into the agreement.]

### Textual Amendments

**F98** Words in s. 236G(1) substituted (with effect in accordance with s. 13(6)-(8) of the amending Act) by [Finance Act 2017 \(c. 10\), s. 13\(5\)](#)

## <sup>F99</sup> Employee-ownership trusts

### Textual Amendments

**F99** Ss. 236H-236U and cross-heading inserted (with effect in accordance with [Sch. 37 para. 2](#) of the amending Act) by [Finance Act 2014 \(c. 26\), Sch. 37 para. 1](#) (with [Sch. 37 paras. 3, 4](#))

## 236H Disposals to employee-ownership trusts

- (1) This section applies where—
  - (a) a person other than a company (“P”) disposes of any ordinary share capital of a company (“C”) to the trustees of a settlement,
  - (b) the relief requirements are met, and
  - (c) P makes a claim under this section.
- (2) Section 17(1) (disposals and acquisitions treated as made at market value) does not apply to the disposal.
- (3) The disposal, and the acquisition by the trustees, are to 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.
- (4) “The relief requirements” are—

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- (a) that C meets the trading requirement (see section 236I) at the time of the disposal and continues to meet that requirement for the remainder of the tax year in which that time falls,
  - (b) that the settlement meets the all-employee benefit requirement at the time of the disposal and continues to meet that requirement for the remainder of the tax year in which that time falls (see sections 236J to 236L and subsection (5) of this section),
  - (c) that the settlement does not meet the controlling interest requirement (see section 236M) immediately before the beginning of the tax year in which the disposal occurs, but—
    - (i) it meets that requirement at the end of that tax year, and
    - (ii) if it met the requirement at an earlier time in that tax year (whether before or after the time of the disposal) it continued to meet it throughout the remainder of that tax year,
  - (d) that the limited participation requirement is met (see section 236N), and
  - (e) that this section does not apply in relation to any related disposal by P or a person connected with P which occurs in an earlier tax year.
- (5) For the purposes of subsection (4)(b)—
- (a) unless the settlement met the all-employee benefit requirement by virtue of section 236L (cases in which all-employee benefit requirement treated as met) at the time of the disposal, that section does not apply for the purposes of determining whether the settlement continues to meet that requirement after the disposal, and
  - (b) if, at the time of the disposal, the settlement met that requirement by virtue of section 236L and later continues to meet it otherwise than by virtue of that section, it may not again meet the requirement by virtue of that section.
- (6) A disposal in an earlier tax year is “related” to the disposal in question if—
- (a) both disposals are of ordinary share capital of the same company, or
  - (b) the disposal in the earlier tax year is of ordinary share capital of a company which is, or at the time of that disposal was, a member of the same group as the company whose ordinary share capital is the subject of the disposal in question.
- (7) A claim under this section must include—
- (a) information to identify the settlement,
  - (b) C’s name and the address of its registered office, and
  - (c) the date of the disposal and the number of shares disposed of.
- (8) Section 236O makes provision about events which prevent a claim being made under this section and circumstances in which a claim is revoked.

## **236I Trading requirement**

- (1) C meets the trading requirement if C is—
- (a) a trading company which is not a member of a group, or
  - (b) the principal company of a trading group.
- (2) “Trading company” means a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities.

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- (3) “Trading group” means a group—
- (a) one or more of whose members carry on trading group activities, and
  - (b) the activities of whose members, taken together, do not include to a substantial extent activities other than trading group activities.
- (4) In this section—
- “trading activities” means activities carried on by the company in the course of, or for the purposes of, a trade being carried on by it;
- “trading group activities” means activities carried on by a member of the group in the course of, or for the purposes of, a trade being carried on by any member of the group.
- (5) For the purposes of determining whether C is a trading company or the principal company of a trading group—
- (a) the activities of the members of a group are to be treated as one business (with the result that activities are disregarded to the extent that they are intra-group activities), and
  - (b) a business carried on by a company in partnership with one or more other persons is to be treated as not being a trading activity or a trading group activity.

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

- C3** S. 236I applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 75A(3) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 14\(1\)\(2\)](#))
- C4** S. 236I applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 86(3A)(a) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 15\(3\)\(4\)](#))
- C5** S. 236I applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 13A(2) (as inserted (with effect in accordance with Sch. 37 para. 10(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 10\(1\)](#))
- C6** S. 236I applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 28A(2) (as inserted (with effect in accordance with Sch. 37 para. 11(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 11\(1\)](#))

**236J All-employee benefit requirement**

- (1) A settlement meets the all-employee benefit requirement if the trusts of the settlement—
- (a) do not permit any of the settled property to be applied, at any time, otherwise than for the benefit of all the eligible employees on the same terms,
  - (b) do not permit the trustees at any time to apply any of the settled property—
    - (i) by creating a trust, or
    - (ii) by transferring property to the trustees of any settlement other than by an authorised transfer,
  - (c) do not permit the trustees at any time to make loans to beneficiaries of the trusts, and
  - (d) do not permit the trustees or any other person at any time to amend the trusts in a way such that the amended trusts would not comply with one or more of paragraphs (a) to (c).

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- (2) Section 236K makes provision about the requirement in subsection (1)(a).
- (3) “Eligible employee” means—
- (a) if C meets the trading requirement by virtue of section 236I(1)(a), any individual who is employed by, or is an office-holder of, C, and
  - (b) if C meets the trading requirement by virtue of section 236I(1)(b), any individual who is employed by, or is an office-holder of, a relevant group company,
- but does not include an excluded participator.
- (4) But where—
- (a) C has ceased to meet the trading requirement or the trustees have ceased to hold any shares in C (or both), and
  - (b) a person was an eligible employee at any time during the period of two years ending immediately before that event (or, where both have occurred, the earlier of them),
- that person continues to be an “eligible employee”.
- (5) “Excluded participator” means—
- (a) a person who is a participator in C, or, where C meets the trading requirement by virtue of section 236I(1)(b), in any relevant group company,
  - (b) any other person who is a participator in any close company that has made a disposition whereby property became comprised in the same settlement, being a disposition which but for section 13 or 13A of the Inheritance Tax Act 1984 (dispositions by close companies for benefit of employees or to employee-ownership trusts) would have been a transfer of value for the purposes of inheritance tax,
  - (c) any other person who has been a participator in any company mentioned in paragraph (a) or (b) at any time on or after the look-back date, or
  - (d) any person who is connected with any person within paragraph (a), (b) or (c).
- (6) The participators in a company who are referred to in subsection (5) do not include any participator who—
- (a) is not beneficially entitled to, or to rights entitling the participator to acquire, 5% or more of, or of any class of the shares comprised in, the company’s share capital, and
  - (b) on a winding-up of the company would not be entitled to 5% or more of its assets.
- (7) In this section—
- “authorised transfer” means a transfer of property consisting of or including any ordinary share capital of a company (“the transferred company”) where—
- (a) the transferred company meets the trading requirement, and
  - (b) the transfer is made to the trustees of a settlement which—
    - (i) meets the controlling interest requirement with respect to the transferred company immediately after the transfer, and
    - (ii) meets the all-employee benefit requirement with respect to the transferred company (ignoring section 236L),
- and for this purpose references to “C” in sections 236I, 236M and 236T and this section are to be read as references to the transferred company,

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“close company” and “participator” have the same meaning as in Part 4 of the Inheritance Tax Act 1984 (see section 102 of that Act), and references to a participator in a company are, in the case of a company which is not a close company, to be construed as references to a person who would be a participator in the company if it were a close company,

“the look-back date” means the first day of the period of 10 years ending with whichever is later of—

- (a) 10 December 2013, and
- (b) the day on which any property first became comprised in the settlement, and

“relevant group company” means C or any other company which is a member of the group of which C is the principal company.

- (8) In this section references to the settled property include references to any income arising from it.
- (9) See section 236L for cases where the all-employee benefit requirement is treated as met.

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

- C7** S. 236J applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 75A(3) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 14\(1\)\(2\)](#))
- C8** S. 236J applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 86(3A)(b) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 15\(3\)\(4\)](#))
- C9** Ss. 236J, 236K applied by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 312E(2)(b) (as inserted (with effect in accordance with Sch. 37 para. 8 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 5](#))
- C10** S. 236J applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 28A(2) (as inserted (with effect in accordance with Sch. 37 para. 11(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 11\(1\)](#))
- C11** S. 236J applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 13A(2) (as inserted (with effect in accordance with Sch. 37 para. 10(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 10\(1\)](#))

#### **236K Further provision about the equality requirement**

- (1) The requirement in section 236J(1)(a) (“the equality requirement”) is not infringed by the trusts by reason only that they—
  - (a) permit the settled property to be applied, where an eligible employee has died, as if a surviving spouse, civil partner or dependant of the deceased person were the eligible employee (and continued to be employed) for a period of 12 months, or such shorter period as the trusts may provide, starting with the time of death,
  - (b) prevent the settled property being applied for the benefit of persons who have not been eligible employees for a continuous period of 12 months or such shorter period as the trusts may provide,
  - (c) permit the trustees to comply with a written request from a person that the trustees do not apply any of the settled property for the benefit of that person, or

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- (d) prevent the settled property being applied for the benefit of all persons who are eligible employees by reason only that they are office-holders.
- (2) The equality requirement is not infringed by the trusts by reason only that, in addition to requiring the settled property to be applied for the benefit of all the eligible employees on the same terms, they also permit the settled property to be applied for charitable purposes.
- (3) Subject to subsections (1) and (2), the equality requirement is infringed by the trusts if they permit the settled property to be applied by reference to factors other than those mentioned in subsection (4).
- (4) The equality requirement is not infringed by the trusts by reason only that they permit the settled property to be applied for the benefit of all the eligible employees by reference to—
- (a) an eligible employee’s remuneration,
  - (b) an eligible employee’s length of service, or
  - (c) hours worked by an eligible employee;
- but this is subject to subsections (5) and (6).
- (5) The equality requirement is infringed by the trusts if they permit any of the settled property to be applied on terms such that some (but not all) eligible employees receive no benefits (other than by virtue of subsection (1)(b), (c) and (d)).
- (6) If any of the settled property is applied by reference to more than one of the factors mentioned in subsection (4), the equality requirement is infringed unless—
- (a) each factor gives rise to a separate entitlement related to the level of remuneration, length of service or (as the case may be) hours worked, and
  - (b) the total entitlement is the sum of those separate entitlements.
- (7) “Eligible employee” has the same meaning as in section 236J.
- (8) In this section, references to the settled property include references to any income arising from it.

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

- C9** Ss. 236J, 236K applied by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 312E(2)(b) (as inserted (with effect in accordance with Sch. 37 para. 8 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 5](#))
- C12** S. 236K applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 75A(3) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 14\(1\)\(2\)](#))
- C13** S. 236K applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 86(3A)(b) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 15\(3\)\(4\)](#))
- C14** S. 236K applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 28A(2) (as inserted (with effect in accordance with Sch. 37 para. 11(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 11\(1\)](#))
- C15** S. 236K applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 13A(2) (as inserted (with effect in accordance with Sch. 37 para. 10(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 10\(1\)](#))

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## **236L Cases in which all-employee benefit requirement treated as met**

- (1) A settlement which would not otherwise meet the all-employee benefit requirement at any time is treated as meeting that requirement at that time if—
  - (a) the settlement was created before 10 December 2013,
  - (b) on that date—
    - (i) section 86 of the Inheritance Tax Act 1984 (trusts for the benefit of employees) applied to the settled property,
    - (ii) the trustees held a significant interest in C, and
    - (iii) the settlement did not meet the all-employee benefit requirement (ignoring this section), and
  - (c) the trustees of the settlement do not, during the period of 12 months ending with the time in question, do any of the following—
    - (i) apply any of the settled property otherwise than for the benefit of all eligible employees on the same terms,
    - (ii) apply any of the settled property by creating a trust,
    - (iii) apply any of the settled property by transferring property to the trustees of any settlement other than by an authorised transfer, or
    - (iv) make loans to beneficiaries of the trusts of the settlement.
- (2) The trustees held a significant interest in C on 10 December 2013 if on that date—
  - (a) they—
    - (i) held 10% or more of the ordinary share capital of C, and
    - (ii) had powers of voting on all questions affecting C as a whole which, if exercised, would have yielded 10% or more of the votes capable of being exercised on them,
  - (b) they were entitled to 10% or more of the profits available for distribution to the equity holders of C,
  - (c) they would have been entitled, on a winding up of C, to 10% or more of the assets of C available for distribution to equity holders, and
  - (d) there were no provisions in any agreement or instrument affecting C's constitution or management or its shares or securities whereby the condition in paragraph (a), (b) or (c) could cease to be satisfied without the consent of the trustees.

See section 236T for further provision relating to the holding of a significant interest.

- (3) Subsections (3) to (8) of section 236J apply for the purposes of this section.
- (4) The requirement in subsection (1)(c)(i) (“the behaviour requirement”) is not infringed by reason only that the trustees of the settlement—
  - (a) apply any of the settled property, where an eligible employee has died, as if a surviving spouse, civil partner or dependant of the deceased person were the eligible employee (and continued to be employed) for a period of 12 months, or such shorter period as the trustees may determine, starting with the time of death,
  - (b) only apply the settled property for the benefit of persons who have been eligible employees for a continuous period of 12 months or such shorter period as the trustees may determine,
  - (c) comply with a written request from a person that the trustees do not apply any of the settled property for the benefit of that person, or

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- (d) have complied with the terms of the trusts of the settlement which prevent the settled property being applied for the benefit of some or all of the persons who are eligible employees by reason only that they are office-holders.
- (5) The behaviour requirement is not infringed by reason only that, in addition to applying any of the settled property for the benefit of all the eligible employees on the same terms, the trustees also apply any of it for charitable purposes.
- (6) Subject to subsections (4) and (5), the behaviour requirement is infringed by the trustees if they apply the settled property by reference to factors other than those mentioned in subsection (7).
- (7) The behaviour requirement is not infringed by the trustees applying the settled property for the benefit of all the eligible employees by reference to—
  - (a) an eligible employee's remuneration,
  - (b) an eligible employee's length of service, or
  - (c) hours worked by an eligible employee;
 but this is subject to subsections (8) and (9).
- (8) The behaviour requirement is infringed if any of the settled property is applied by the trustees on terms such that some (but not all) eligible employees receive no benefits (other than as mentioned in subsection (4)(b), (c) and (d)).
- (9) If the trustees apply any of the settled property by reference to more than one of the factors mentioned in subsection (7), the behaviour requirement is infringed unless—
  - (a) each factor gives rise to a separate entitlement related to the level of remuneration, length of service or (as the case may be) hours worked, and
  - (b) the total entitlement is the sum of those separate entitlements.

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

**C16** S. 236L applied by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 312E(3) (as inserted (with effect in accordance with Sch. 37 para. 8 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 5](#))

**236M Controlling interest requirement**

- (1) A settlement meets the controlling interest requirement if—
  - (a) the trustees—
    - (i) hold more than 50% of the ordinary share capital of C, and
    - (ii) have powers of voting on all questions affecting C as a whole which, if exercised, would yield a majority of the votes capable of being exercised on them,
  - (b) the trustees are entitled to more than 50% of the profits available for distribution to the equity holders of C,
  - (c) the trustees would be entitled, on a winding up of C, to more than 50% of the assets of C available for distribution to equity holders, and
  - (d) there are no provisions in any agreement or instrument affecting C's constitution or management or its shares or securities whereby the condition in paragraph (a), (b) or (c) can cease to be satisfied without the consent of the trustees.



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(2) See section 236T for further provision relating to the controlling interest requirement.

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

- C17** S. 236M applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 75A(3) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 14\(1\)\(2\)](#))
- C18** S. 236M applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 86(3A)(b) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 15\(3\)\(4\)](#))
- C19** S. 236M applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 13A(2) (as inserted (with effect in accordance with Sch. 37 para. 10(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 10\(1\)](#))
- C20** S. 236M applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 28A(2) (as inserted (with effect in accordance with Sch. 37 para. 11(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 11\(1\)](#))
- C21** S. 236M applied by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 312E(2)(a) (as inserted (with effect in accordance with Sch. 37 para. 8 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 5](#))

#### **236N Limited participation requirement**

- (1) The limited participation requirement is met if Conditions A and B are met.
- (2) Condition A is that there was no time in the period of 12 months ending immediately after the disposal mentioned in section 236H(1) when—
- P was a participator in C, and
  - the participator fraction exceeded  $\frac{2}{5}$ .
- (3) Condition B is that the participator fraction does not exceed  $\frac{2}{5}$  at any time in the period beginning with that disposal and ending at the end of the tax year in which it occurs.
- (4) But a time which falls in a period during which the participator fraction exceeded  $\frac{2}{5}$  is to be disregarded for the purposes of subsection (2)(b) and (3) if—
- that period lasts no more than 6 months, and
  - the fraction exceeded  $\frac{2}{5}$  during that period by reason of events outside the reasonable control of the trustees.

(5) “The participator fraction” means—

NPNE

where—

NP is the sum of—

- the number of persons who at the time in question are both—
  - participators in C, and
  - employees of, or office-holders in, C, and
- the number of other persons who at that time are both—
  - employees of, or office-holders in, C or, if C is the principal company of a trading group, any member of the group, and
  - connected with persons within paragraph (a);

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NE is the number of persons who at that time are employees of C or, if C is the principal company of a trading group, any member of the group.

- (6) The participators in C who are referred to in subsections (2) and (5) do not include any participator who—
- (a) is not beneficially entitled to, or to rights entitling the participator to acquire, 5% or more of, or of any class of the shares comprised in, C's share capital, and
  - (b) on a winding-up of C would not be entitled to 5% or more of its assets.
- (7) In this section—
- (a) "participator" has the meaning given by section 454 of CTA 2010, and
  - (b) references to a participator in a company are, in the case of a company which is not a close company (within the meaning of Chapter 2 of Part 10 of that Act), to be construed as references to a person who would be a participator in the company if it were a close company.

### **236O No section 236H relief if disqualifying event in next tax year**

- (1) This section applies where—
- (a) a disposal is made in circumstances where paragraphs (a) and (b) of section 236H(1) are satisfied, and
  - (b) one or more disqualifying events occur in relation to the disposal in the tax year following the tax year in which the disposal occurs.
- (2) A "disqualifying event" occurs in relation to the disposal if and when—
- (a) C ceases to meet the trading requirement,
  - (b) the settlement ceases to meet the all-employee benefit requirement,
  - (c) the settlement ceases to meet the controlling interest requirement,
  - (d) the participator fraction exceeds  $\frac{2}{5}$ , or
  - (e) the trustees act in a way which the trusts, as required by the all-employee benefit requirement, do not permit.
- (3) No claim for relief under section 236H may be made in respect of the disposal on or after the day on which the disqualifying event (or, if more than one, the first of them) occurs.
- (4) Any claim for relief under section 236H made in respect of the disposal before that day is revoked, and the chargeable gains and allowable losses of any person for any chargeable period are to be calculated as if that claim had never been made.
- (5) Such adjustments must be made in relation to any person, whether by the making of assessments or otherwise, as are required to give effect to subsection (4) (regardless of any limitation on the time within which any adjustment may be made).
- (6) Section 236H(5) (restrictions on application of section 236L) applies for the purposes of subsection (2)(b).
- (7) Section 236N(4) applies for the purposes of subsection (2)(d) as it applies in relation to section 236N(2)(b) and (3).

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### **236P Events which trigger deemed disposal and reacquisition by trustees**

- (1) Where the trustees of a settlement acquire any ordinary share capital in a tax year in circumstances where section 236H applies, subsection (3) applies on the first occasion, after the end of the tax year following the tax year in which the acquisition occurs, when a disqualifying event occurs in relation to the acquisition.
- (2) A “disqualifying event” occurs in relation to the acquisition if and when—
  - (a) C ceases to meet the trading requirement,
  - (b) the settlement ceases to meet the all-employee benefit requirement,
  - (c) the settlement ceases to meet the controlling interest requirement,
  - (d) the participator fraction exceeds 2/5, or
  - (e) the trustees act in a way which the trusts, as required by the all-employee benefit requirement, do not permit.
- (3) The trustees are treated as having, immediately before the disqualifying event—
  - (a) disposed of any ordinary share capital of C held by the trustees which comprises shares acquired in circumstances where section 236H applied (and not subsequently disposed of and reacquired), and
  - (b) immediately reacquired that ordinary share capital, at its market value at that time.
- (4) For the purposes of subsection (2)(b)—
  - (a) unless the settlement met the all-employee benefit requirement at the time of the acquisition by virtue of section 236L, that section does not apply for the purposes of determining whether the settlement continues to meet that requirement after the acquisition, and
  - (b) if, at the time of the acquisition, the settlement met that requirement by virtue of section 236L and later continues to meet it otherwise than by virtue of that section, it may not again meet the requirement by virtue of that section.
- (5) Section 236N(4) applies for the purposes of subsection (2)(d) as it applies in relation to section 236N(2)(b) and (3).

### **236Q Relief for deemed disposals under section 71**

- (1) This section applies where—
  - (a) a deemed disposal arises under section 71(1) by reason of the trustees of a settlement (“the acquiring settlement”) becoming absolutely entitled to settled property as against the trustee of that settled property (“the transferring trustee”),
  - (b) that settled property consists of ordinary share capital of a company,
  - (c) the relief requirements in section 236H(4)(a) to (d) are met, and
  - (d) the transferring trustee makes a claim under this section.
- (2) Section 17(1) (disposals and acquisitions treated as made at market value) does not apply to the disposal.
- (3) The deemed disposal and acquisition by the transferring trustee under section 71(1) are to 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.

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- (4) For the purposes of section 236P the trustees of the acquiring settlement are treated as acquiring the ordinary share capital from the transferring trustee, at the time of the deemed disposal, in circumstances where section 236H applies.
- (5) In applying sections 236H(4), 236I to 236P and 236T for the purposes of this section—
  - (a) references in those provisions to the settlement are to be read as references to the acquiring settlement, and
  - (b) references in those provisions to C are to be read as references to the company mentioned in subsection (1)(b).
- (6) A claim under this section must include—
  - (a) information to identify the acquiring settlement,
  - (b) the name of the company mentioned in subsection (1)(b) and the address of its registered office, and
  - (c) the date of the deemed disposal and the number of shares deemed to have been disposed of.
- (7) Section 236R makes provision about events which prevent a claim being made under this section and circumstances in which a claim is revoked.

#### **236R No section 236Q relief if disqualifying event in next tax year**

- (1) This section applies where—
  - (a) a deemed disposal arises in circumstances where paragraphs (a) to (c) of section 236Q(1) are satisfied, and
  - (b) one or more disqualifying events occur in relation to the disposal in the tax year following the tax year in which the deemed disposal arises.
- (2) No claim for relief under section 236Q may be made in respect of the deemed disposal on or after the day on which the disqualifying event (or, if more than one, the first of them) occurs.
- (3) Any claim for relief under section 236Q made in respect of the deemed disposal before that day is revoked, and the chargeable gains and allowable losses of any person for any chargeable period are to be calculated as if that claim had never been made.
- (4) Such adjustments must be made in relation to any person, whether by the making of assessments or otherwise, as are required to give effect to subsection (3) (regardless of any limitation on the time within which any adjustment may be made).
- (5) “Disqualifying event” is to be construed in accordance with subsections (2), (6) and (7) of section 236O except that—
  - (a) references in those subsections to the disposal are to be read as references to the deemed disposal, and
  - (b) in applying sections 236I to 236P and 236T for this purpose—
    - (i) references in those provisions to the settlement are to be read as references to the acquiring settlement (within the meaning of section 236Q(1)), and
    - (ii) references in those provisions to C are to be read as references to the company mentioned in section 236Q(1)(b).

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### **236S Identification of shares where section 236H or 236Q applies**

- (1) This section applies where the trustees of a settlement hold—
  - (a) shares which were—
    - (i) acquired in circumstances where section 236H applied, or
    - (ii) the subject of a deemed acquisition under section 71(1) in circumstances where section 236Q applied,and not subsequently disposed of and reacquired (“EOT exempt shares”), and
  - (b) other shares which, but for section 104(4A), would be shares of the same class as those shares.
- (2) If the trustees dispose of some, but not all, of the shares so held, they may determine what proportion of the shares disposed of are EOT exempt shares (up to the number of such shares held).
- (3) For the purposes of this section shares in a company are not to be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on a recognised stock exchange.
- (4) Nothing in subsection (2) applies in relation to a disposal by virtue of section 236P(3).

### **236T Further provision about significant and controlling interests**

- (1) This section applies for the purposes of—
  - (a) section 236L(2) (trustees hold a significant interest in C), and
  - (b) section 236M (controlling interest requirement).
- (2) Chapter 6 of Part 5 of CTA 2010 (group relief: equity holders and profits or assets available for distribution) applies as it applies for the purposes of the provisions mentioned in section 157(1) of that Act.
- (3) The trustees are to be treated, for the purposes of section 236L(2)(b) or 236M(1)(b), as entitled to dividends on shares even if the trustees are required, or permitted, by the trusts of the settlement to waive their entitlement to those dividends.
- (4) In determining whether section 236L(2)(d) or 236M(1)(d) applies, ignore any provision of—
  - (a) a mortgage or charge (or, in Scotland, a charge or security) granted by the trustees to a third party to secure any debt, or
  - (b) an agreement in respect of a loan made to the trustees by a third party, which confers any entitlement on the third party in the event of a default by the trustees in performing their obligations in relation to that debt or loan.
- (5) In this section—

“third party” means a person other than—

  - (a) C or a member of a group of which C is the principal company,
  - (b) a person who is, or has at any time in the preceding 12 months been, a participator in C or in a member of such a group, or
  - (c) a person connected with a person within paragraph (b);

“close company” and “participator” have the same meaning as in Part 4 of the Inheritance Tax Act 1984 (see section 102 of that Act), and a reference to a participator in a company is, in the case of a company which is not a

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close company, to be construed as a reference to a person who would be a participator in the company if it were a close company.

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

- C22** S. 236T applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 75A(3) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 14\(1\)\(2\)](#))
- C23** S. 236T applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 86(3A)(b) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 15\(3\)\(4\)](#))
- C24** S. 236T applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 13A(2) (as inserted (with effect in accordance with Sch. 37 para. 10(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 10\(1\)](#))
- C25** S. 236T applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 28A(2) (as inserted (with effect in accordance with Sch. 37 para. 11(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 11\(1\)](#))

**236U Interpretation of sections 236H to 236U**

- (1) In sections 236H to 236T and this section—
  - “company” has the meaning given by section 170(9);
  - “ordinary share capital” has the meaning given by section 1119 of CTA 2010;
  - “trade” means any trade which is conducted on a commercial basis and with a view to the realisation of profits.
- (2) In those sections—
  - (a) references to a group, to membership of a group or to the principal company of a group, are to be construed in accordance with section 170, and
  - (b) references to a group are to be construed with any necessary modifications where applied to a company incorporated under the law of a country or territory outside the United Kingdom.
- (3) In determining whether a person is connected with another for the purposes of those sections, section 286 applies as if subsection (8) of that section also mentioned uncle, aunt, nephew and niece.]

*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, [<sup>F100</sup>or]
- <sup>F101</sup>(b) .....
- (c) annual payments which are due under a covenant made by any person and which are not secured on any property.

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#### Textual Amendments

**F100** Word in s. 237(a) inserted (with effect in accordance with s. 73(4) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 73\(3\)\(a\)](#)

**F101** S. 237(b) repealed (with effect in accordance with s. 73(4) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 73\(3\)\(b\), Sch. 26 Pt. 3\(10\)](#)

### [<sup>F102</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

**F102** 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 of or Schedule 9 or 10 to the Taxes Act [<sup>F103</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;

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- (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>F104</sup>(4) .....

#### Textual Amendments

**F103** 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)

**F104** 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>F106</sup>238A<sup>F105</sup>... Share schemes and share incentives

- (1) Schedule 7D (<sup>F107</sup>... share schemes and share incentives) shall have effect.
- (2) Schedule 7D relates—
  - (a) in Part 1, to [<sup>F108</sup>Schedule 2] share incentive plans (SIPs) (see section 488 of ITEPA 2003),
  - (b) in Part 2, to [<sup>F109</sup>Schedule 3] SAYE option schemes (see section 516 of that Act),
  - (c) in Part 3, to [<sup>F110</sup>Schedule 4] CSOP schemes (CSOPs) (see section 521 of that Act), <sup>F111</sup>...
  - <sup>F111</sup>(d) ..... ]

#### Textual Amendments

**F105** Word in s. 238A heading omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\), Sch. 8 paras. 35\(2\), 89](#) (with Sch. 8 paras. 90-96)

**F106** 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)

**F107** Word in s. 238A(1) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\), Sch. 8 paras. 35\(3\), 89](#) (with Sch. 8 paras. 90-96)

**F108** Words in s. 238A(2)(a) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\), Sch. 8 paras. 35\(4\), 89](#) (with Sch. 8 paras. 90-96)



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

*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 19 June 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)*

- F109** Words in s. 238A(2)(b) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 124](#), 146 (with [Sch. 8 paras. 147-157](#))
- F110** Words in s. 238A(2)(c) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 184](#), 204 (with [Sch. 8 paras. 205-215](#))
- F111** S. 238A(2)(d) and preceding word omitted (with effect in accordance with Sch. 3 para. 9(4) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 3 para. 9\(1\)](#)

## 239 [F112] Disposals to trustees of 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>M6</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>M7</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.

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

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- (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
  - (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 [F113 1159 of and Schedule 6 to] the Companies Act [F113 2006] and in subsections (5) and (6) above “participator” has the meaning given [F114 by section 454 of CTA 2010], 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.

#### Textual Amendments

- F112** S. 239 heading substituted (with effect in accordance with art. 11(4) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), **11(2)**
- F113** Words in s. 239(7) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), **4(1)(i)**
- F114** Words in s. 239(7) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 253** (with Sch. 2)

#### Marginal Citations

- M6** 1984 c. 51.  
**M7** 1984 c. 51.

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## **[<sup>F115</sup>239ZA] Relief for disposals by trustees of employee trusts**

- (1) Any gain accruing to trustees on the disposal of an asset comprised in the settled property of an employee trust shall not be a chargeable gain where the disposal is—
  - (a) a disposal to a beneficiary, or
  - (b) a deemed disposal under section 71(1),if the conditions in subsection (2) are satisfied.
- (2) The conditions are that—
  - (a) an amount that is equal to or exceeds the market value of the asset is chargeable to income tax as employment income within the meaning of section 7 of ITEPA 2003 (meaning of “employment income” etc);
  - (b) neither the beneficiary nor (if different) the person who is liable for the income tax is an excluded person;
  - (c) no actual consideration (as opposed to consideration deemed to be given by any enactment relating to the taxation of chargeable gains) is given directly or indirectly to the trustees for the asset; and
  - (d) Schedule 7D does not to any extent prevent the gain being a chargeable gain.
- (3) The following are excluded persons—
  - (a) a participator in a company, shares in or securities of which are comprised in the settled property;
  - (b) a participator in a close company that has provided any property that has become comprised in the settled property;
  - (c) a person who was a participator in a company within paragraph (a) or (b) at any time during the 10 years before the shares, securities or other property concerned became comprised in the settled property;
  - (d) a person connected with a person within any of paragraphs (a) to (c).
- (4) For the purposes of subsection (3)—
  - (a) “participator” has the same meaning as in section 239 and shall, in the case of a company which is not a close company, be construed as a person who would be a participator in the company if it were a close company, but
  - (b) a person is not a participator unless either—
    - (i) that person is entitled to, or entitled to rights enabling the acquisition of, 5% or more of the share capital of the company or any class of shares in the company, or
    - (ii) that person would be entitled to 5% or more of the company’s assets on winding-up.
- (5) In determining whether a person is connected with another for the purposes of this section, section 286 shall apply as if subsection (8) of that section also mentioned uncle, aunt, nephew and niece.
- (6) In this section—

“beneficiary” means a person within paragraph (a) or (b) of section 86(1) of the Inheritance Tax Act 1984 (trusts for benefit of employees);

“close company” includes a company which, if resident in the United Kingdom, would be a close company as defined in section 288;

“employee trust” means a settlement of property to which section 86 of the Inheritance Tax Act 1984 applies or would apply but for subsection (3) of that section;

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“market value” means the market value for the purposes of capital gains tax (as to which see section 272).]

**Textual Amendments**

**F115** S. 239ZA inserted (with effect in accordance with art. 11(4) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), **11(3)**

*[<sup>F116</sup>Registered pension schemes*

**Textual Amendments**

**F116** S. 239A and cross-heading substituted for ss. 239A, 239B (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), **Sch. 35 para. 40** (with [Sch. 36](#))

**239A De-registration of registered pension schemes**

- (1) This section applies where tax is charged in accordance with section 242 of the Finance Act 2004 (de-registration charge) where the registration of a registered pension scheme is withdrawn.
- (2) For the purposes of this Act the assets which at the relevant time are held for the purposes of the pension scheme—
  - (a) are treated as having been acquired at the relevant time for a consideration equal to the amount on which tax is charged by virtue of section 242 of the Finance Act 2004 by the person who would be chargeable in respect of a chargeable gain accruing on a disposal of the assets at the relevant time, and
  - (b) are not to be treated as having been disposed of by any person at the relevant time.
- (3) In subsection (2) “the relevant time” means the time immediately before the date of withdrawal of registration of the pension scheme.]

*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.

**241 [<sup>F117</sup>UK 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>F118</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.

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For the purposes of this section as it applies to corporation tax in respect of chargeable gains the “commercial letting of furnished holiday accommodation” [F119] has the same meaning as it has for the purposes of Chapter 6 of Part 4 of CTA 2009.]

(3) [F120] Subject to subsections (4) to (8) below, for the purposes of the provisions mentioned in subsection (3A) below—

[F121] (a) any [F122] UK property business [F123] ... 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.

[F124] (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),

[F125] section 169S(1) (entrepreneurs’ relief),]

Section 253 (relief for loans to traders),

[F126] .....

[F127] ....., and

Schedule 7AC (exemptions for disposals by companies with substantial shareholding).]

(4) Subject to subsection (5) below, for the purposes of the [F128] 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 [F129] in the United Kingdom]—

(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 [F130] are] just and reasonable.

(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.

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### Textual Amendments

- F117** Words in s. 241 heading substituted (with effect in accordance with Sch. 14 para. 15 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 14 para. 14(2)(a)**
- F118** 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)
- F119** Words in s. 241(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 380(2)** (with Sch. 2 Pts. 1, 2)
- F120** Words in s. 241(3) substituted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 8 para. 3(2)**
- F121** 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)
- F122** 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)
- F123** Words in s. 241(3)(a) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 380(3), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F124** S. 241(3A) inserted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 8 para. 3(3)**
- F125** Words in s. 241(3A) inserted (with effect in accordance with Sch. 3 para. 5 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 3 para. 3**
- F126** Words in s. 241(3A) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 37**
- F127** Words in s. 241(3A) omitted (with effect in accordance with Sch. 14 para. 15 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 14 para. 14(2)(b)**
- F128** Words in s. 241(4) substituted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 8 para. 3(4)**
- F129** Words in s. 241(4) inserted (with effect in accordance with Sch. 14 para. 15 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 14 para. 14(2)(c)**
- F130** 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)

- C26** 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**

### [<sup>F131</sup>241AEEA 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 EEA states other than the United Kingdom.
- (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.
- (3) 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 same meaning as it has for the purposes of Chapter 6 of Part 4 of CTA 2009.
- (4) Subject to subsections (6) to (10) below, for the purposes of the provisions mentioned in subsection (5) below—
  - (a) any overseas property business which consists of, or so far as it consists of, the commercial letting of furnished holiday accommodation in one or more EEA states shall be treated as a trade, and

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- (b) all such lettings made by a particular person or partnership or body of persons shall be treated as one trade.
- (5) The provisions referred to in subsection (4) above are—  
sections 152 to 157 (roll-over relief on replacement of business assets),  
section 165 (gifts relief),  
section 169S(1) (entrepreneurs' relief),  
section 253 (relief for loans to traders), and  
Schedule 7AC (exemptions for disposals by companies with substantial shareholdings).
- (6) Subject to subsection (7) below, for the purposes of the provisions mentioned in subsection (5) above as they apply by virtue of this section, where in any chargeable period a person makes a commercial letting of furnished holiday accommodation in an EEA state other than the United Kingdom—  
(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.
- (7) Subsection (6) 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.
- (8) 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 (4) 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.
- (9) 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 are just and reasonable.
- (10) 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.
- (11) In this section “overseas property business” means—  
(a) an overseas property business within the meaning of the Income Tax Acts (see section 989 of ITA 2007), or  
(b) a overseas property business within the meaning of the Corporation Tax Acts (see section 1119 of CTA 2010).]

#### Textual Amendments

**F131** S. 241A inserted (with effect in accordance with Sch. 14 paras. 15-17 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 14\(3\)](#)



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### *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>F132</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
  - (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**

**F132** 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](#)



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### 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>F133</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 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

**F133** 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)—

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- (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>F134</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**

**F134** 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](#)

### *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)

<sup>F135</sup> ... .

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### Textual Amendments

**F135** 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—
  - (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

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- (b) [<sup>F136</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>F137</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).

#### **Textual Amendments**

**F136** 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\(5\)](#)

**F137** 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>F138</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.]

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#### Textual Amendments

**F138** 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—
- it is a dwelling-house or part of a dwelling-house (or an interest in or right over a dwelling-house), and
  - 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 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—
- 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
  - paragraph (b) of subsection (2) were omitted; and
  - 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.

#### *[<sup>F139</sup> Joint interests in land*

#### Textual Amendments

**F139** Ss. 248A-248E and cross-heading inserted (with effect in accordance with art. 8(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2010 \(S.I. 2010/157\)](#), arts. 1, **8(1)**

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## **248A Roll-over relief on disposal of joint interests in land: conditions**

- (1) Section 248B applies where conditions A to E are met.
- (2) Condition A is that a person (“the landowner”) and one or more other persons jointly hold—
  - (a) a holding of land, or
  - (b) two or more separate holdings of land.
- (3) Condition B is that the landowner disposes of an interest (“the relinquished interest”) in—
  - (a) the holding, or
  - (b) one or more of the holdings,
 to the co-owner or to one or more of the co-owners.
- (4) Condition C is that the consideration for the disposal is or includes an interest (“the acquired interest”) in a holding of land held jointly by the landowner and one or more of the co-owners.
- (5) Condition D is that as a consequence of the disposal (taken together with any related disposals) the landowner and each of the co-owners become—
  - (a) in a case falling within subsection (2)(a), the sole owner of part of the holding, or
  - (b) in a case falling within subsection (2)(b), the sole owner of one or more of the holdings.
- (6) Condition E is that the acquired interest is not an interest in excluded land (see section 248C).
- (7) For the purposes of this section—
  - (a) references to a holding of land include references to an estate or interest in a holding of land, and are to be read in accordance with section 243(3);
  - (b) references to holding land jointly are to holding land—
    - (i) in England and Wales, as joint tenants or tenants in common,
    - (ii) in Scotland, as joint owners or owners in common, or
    - (iii) in Northern Ireland, as joint tenants, tenants in common or coparceners;
  - (c) “co-owner” means any person who holds a holding of land jointly with the landowner;
  - (d) a related disposal (in relation to a disposal mentioned in condition B) is a disposal of an interest in the holding, or in one or more of the holdings, which is made—
    - (i) by the landowner to a co-owner, or
    - (ii) by a co-owner to the landowner or another co-owner,
 at the same time as the disposal mentioned in that condition;
  - (e) spouses who are living together, or civil partners who are living together, are together treated as a landowner or a co-owner.

## **248B Calculation of relief**

- [<sup>F140</sup>(1) If the amount or value of the consideration for the disposal of the relinquished interest is equal to or less than the amount or value of the consideration for the acquired

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- interest, the landowner, on making a claim, is to be treated for the purposes of this Act—
- (a) as if the consideration for the disposal of the relinquished interest were of such amount as would secure that on the disposal neither a gain nor a loss accrues to the landowner, and
  - (b) as if the amount or value of the consideration for the acquired interest were reduced by the excess of the amount or value of the consideration for the disposal of the relinquished interest over the amount of the consideration which the landowner is treated as receiving under paragraph (a).
- (2) Where the amount or value of the consideration for the disposal of the relinquished interest exceeds the amount or value of the consideration for the acquired interest, then if the excess (“the unexpended consideration”) is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the relinquished interest, the landowner on making a claim is to 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 acquired interest 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).]
- (3) Subsections (1) and (2) are subject to section 248C(3).
- (4) Nothing in subsection (1) or (2) affects the treatment for the purposes of this Act of a co-owner (within the meaning given by section 248A(7)).
- (5) Where subsection (1)(a) applies to exclude a gain which, in consequence of Schedule 2 (assets held on 6th April 1965) is not all chargeable gain, the amount of the reduction to be made under subsection (1)(b) shall be the amount of the chargeable gain, and not the whole amount of the gain.

#### Textual Amendments

**F140** S. 248B(1)(2) substituted (with effect in accordance with art. 2(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2013 \(S.I. 2013/234\)](#), arts. 1, **2(1)**

### 248C Excluded land

- (1) Land is excluded land to the extent that—
- (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 (private residences) 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.
- (2) In subsection (1)(b), “a material time” means any time during the period of 6 years beginning on the date of the acquisition of the acquired interest.
- (3) If land was not excluded land at the date of the acquisition of the acquired interest but becomes excluded land within 6 years of the acquisition, the amount of any chargeable gain accruing on the disposal of the relinquished interest shall be re-determined



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without regard to any relief previously given under section 248B by reference to the amount or value of the consideration for the acquisition of the interest in that land.

- (4) Any adjustments of capital gains tax in accordance with subsection (3), whether by way of assessment or otherwise, may be made at any time, despite anything in section 34 of the Management Act (time limit for assessments).
- (5) Expressions used in this section have the same meaning as in section 248A.

#### **248D Milk quotas**

- (1) This section applies where—
  - (a) section 248B applies to a holding (or holdings) of land, and
  - (b) milk quota is associated with the holding in which the relinquished interest is held and with the holding in which the acquired interest is held.
- (2) Section 248B(1), (2) and (4) apply—
  - (a) to the disposal of quota associated with the holding in which the relinquished interest is held as they apply to the disposal of that interest, and
  - (b) to the acquisition of quota associated with the holding in which the acquired interest is held as they apply to the acquisition of that interest.

#### **248E Relief on disposal of joint interests in private residence**

- (1) This section applies where conditions A to E are met.
- (2) Condition A is that a person (“the landowner”) and one or more other persons jointly hold an interest in two or more dwelling-houses.
- (3) Condition B is that the landowner disposes of an interest (“the relinquished interest”) in one or more of the dwelling-houses to the co-owner or to one or more of the co-owners.
- (4) Condition C is that the consideration for the disposal is or includes an interest (“the acquired interest”) in one of the other dwelling-houses.
- (5) Condition D is that as a consequence of the disposal (taken together with any related disposals)—
  - (a) the dwelling-house in which the landowner acquires an interest becomes the only or main residence of the landowner, and
  - (b) each of the other dwelling-houses becomes the only or main residence of one (and only one) of the co-owners.
- (6) Condition E is that if each dwelling-house were disposed of immediately after the disposal (or disposals) mentioned in subsection (5) then by virtue of sections 222 and 223 (private residences) no part of the gain accruing on each of those disposals would be a chargeable gain.
- (7) The landowner, on making a claim jointly with the co-owner or co-owners, shall be treated for the purposes of this Act—
  - (a) as if the consideration for the disposal of the relinquished interest were of such amount as would secure that on the disposal neither a gain nor a loss accrues, and
  - (b) as if the acquired interest were acquired by the landowner—



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- (i) at the time it was acquired jointly by the landowner and the co-owner or co-owners, and
  - (ii) for a consideration equal to the amount of the sums that would have been allowable under section 38(1)(a) and (b) (acquisition and disposal costs etc) as a deduction in the computation of any gain on a disposal of the acquired interest by the co-owner or co-owners.
- (8) For the purposes of this section—
- (a) “co-owner” means any person who holds an interest in a dwelling-house jointly with the landowner;
  - (b) references to holding land jointly are to holding land—
    - (i) in England and Wales, as joint tenants or tenants in common,
    - (ii) in Scotland, as joint owners or owners in common, or
    - (iii) in Northern Ireland, as joint tenants, tenants in common or coparceners;
  - (c) a related disposal (in relation to a disposal mentioned in condition B) is a disposal of an interest in a dwelling-house which is made—
    - (i) by the landowner to a co-owner, or
    - (ii) by a co-owner to the landowner or another co-owner,at the same time as the disposal mentioned in that condition;
  - (d) spouses who are living together, or civil partners who are living together, are together treated as a landowner or a co-owner.]

*[<sup>F141</sup>Woodlands]*

**Textual Amendments**

**F141** S. 249 cross-heading substituted (with effect in accordance with Sch. 39 para. 49(3) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 49\(2\)](#)

**<sup>F142</sup>249 Grants for giving up agricultural land.**

**Textual Amendments**

**F142** S. 249 repealed (with effect in accordance with Sch. 39 para. 49(3) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 49\(1\)](#)

**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.

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- (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.
- (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 [F143]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 [F144]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 [F145]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) [F146]Where the trustees of a settlement are the original creditor], 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, [F147]as against the trustees], to the debt on its ceasing to be settled property, and to that person's personal representative or legatee.
- [F148](5A) References in this section to the disposal of a debt include the disposal of an interest in a debt (and, in the case of an interest in a debt, the reference in subsection (3) to the amount of the debt is to the amount of the person's interest in the debt).]

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[<sup>F149</sup>(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 [<sup>F150</sup>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 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>F151</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>F152</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—

- <sup>F153</sup>(a) .....
- (b) any instrument which <sup>F154</sup>... is not a loan relationship of a company but which would be a [<sup>F155</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

- F143** 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\(12\)\(a\)](#)
- F144** 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\(12\)\(b\)\(i\)](#)
- F145** 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\(12\)\(b\)\(ii\)](#)
- F146** Words in s. 251(5) substituted (with effect in accordance with Sch. 12 para. 23(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 23\(1\)\(a\)](#)
- F147** Words in s. 251(5) substituted (with effect in accordance with Sch. 12 para. 23(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 23\(1\)\(b\)](#)
- F148** S. 251(5A) inserted (with effect in accordance with s. 34(6) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 35\(3\)](#)
- F149** S. 251(6) inserted (27.7.1993 with effect as mentioned in s. 84(3)) by [1993 c. 34](#), [s. 84\(2\)\(3\)](#)
- F150** 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\(12\)\(c\)](#)
- F151** 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\(5\)](#)
- F152** 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](#))

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- F153** S. 251(8)(a) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 381(a), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F154** Words in s. 251(8)(b) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 381(b), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F155** 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)**

- C27** S. 251(8) modified (27.7.1999) by [Finance Act 1999 \(c. 16\)](#), **s. 65(11)**

**[<sup>F156</sup>252 Foreign currency bank accounts.**

- (1) Section 251(1) does not apply in relation to a gain accruing to a person on a disposal of a foreign currency debt (or an interest in such a debt) unless that person is—
  - (a) an individual,
  - (b) the trustees of a settlement, or
  - (c) the personal representatives of a deceased person.
- (2) A “foreign currency debt” is a debt—
  - (a) owed by a bank in a currency other than sterling, and
  - (b) represented by a sum standing to the credit of an account-holder in an account in that bank.]

**Textual Amendments**

- F156** S. 252 substituted (with effect in accordance with s. 34(6) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **s. 35(4)**

**[<sup>F157</sup>252A Foreign currency bank accounts and the remittance basis**

**Textual Amendments**

- F157** S. 252A omitted (with effect in accordance with s. 34(6) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), **s. 35(5)**

**253 Relief for loans to traders.**

- (1) In this section “a qualifying loan” means a loan in the case of which—
  - (a) 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
  - (b) the borrower is resident in the United Kingdom, and
  - (c) 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.

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(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>F158</sup>Where a person who has made a qualifying loan makes a claim and at that time]—  
(a) any outstanding amount of the principal of the loan has become irrecoverable, and  
(b) the claimant has not assigned his right to recover that amount, and  
(c) the claimant and the borrower were not each other's spouses [<sup>F159</sup>or civil partners], or companies in the same group, when the loan was made or at any subsequent time,

[<sup>F160</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 [<sup>F161</sup>Part 5 of CTA 2009] (loan relationships),] this Act shall have effect as if an allowable loss equal to that amount had accrued to the claimant [<sup>F162</sup>at the time of the claim or (subject to subsection (3A) below) any earlier time specified in the claim].

[<sup>F163</sup>(3A) For the purposes of subsection (3) above, an earlier time may be specified in the claim if:

- (a) the amount to which that subsection applies was also irrecoverable at the earlier time; and either
- (b) 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
- (c) 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>F164</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]—

- (a) any outstanding amount of, or of interest in respect of, the principal of the loan has become irrecoverable from the borrower, and
- (b) the claimant has made a payment under the guarantee (whether to the lender or a co-guarantor) in respect of that amount, and
- (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>F165</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>F165</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>F166</sup>(4A) A claim under subsection (4) above shall be made—

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- (a) for the purposes of capital gains tax, [<sup>F167</sup>not more than 4 years after the end of] the year of assessment in which the payment was made;
  - (b) for the purposes of corporation tax, within [<sup>F168</sup>4 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,
- 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—

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- (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>F169</sup>(aa) “civil partners” means civil partners who are living together (construed in accordance with section 288(3)).]
  - (b) “trading company” has the [<sup>F170</sup>same meaning as in section 165 (see section 165A)], 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

- F158** 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\(2\)\(a\)](#)
- F159** 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\(2\)](#)
- F160** 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](#))
- F161** Words in s. 253(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 382](#) (with [Sch. 2 Pts. 1, 2](#))
- F162** 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\(2\)\(b\)](#)
- F163** 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\(3\)](#)
- F164** 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\(4\)](#)
- F165** 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\(3\)](#)
- F166** 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](#)
- F167** Words in s. 253(4A)(a) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 30\(a\)](#); [S.I. 2009/403](#), art. 2(2) (with art. 10)
- F168** Words in s. 253(4A)(b) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 30\(b\)](#); [S.I. 2009/403](#), art. 2(2) (with art. 10)

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- F169** 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)**
- F170** Words in s. 253(14)(b) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 38**

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

- C28** Ss. 253, 254 modified (11.1.1994 retrospective) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), Sch. 24 para. 9(3)(4)
- C29** Ss. 253, 254 restricted (11.1.1994 retrospective) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), **Sch. 24 para. 9(5)**
- C30** 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.
- C31** S. 253(4) modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), Sch. 24 para. 9(2)(5)
- C32** S. 253(4) modified (8.11.1995) by [Atomic Energy Authority Act 1995 \(c. 37\)](#), **Sch. 3 para. 6(2)**
- C33** S. 253(7)(8) excluded (11.1.1994 retrospective) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), **Sch. 24 para. 9(9)**
- C34** 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.
- C35** 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.
- C36** 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>F171</sup>254 Relief for debts on qualifying corporate bonds.**

.....

**Textual Amendments**

- F171** 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>F171</sup>255 Provisions supplementary to section 254.**

.....

**Textual Amendments**

- F171** 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>F172</sup>Investments in social enterprises*

**Textual Amendments**

- F172** Ss. 255A-255E and cross-heading inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 12 para. 2**



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### **255A Hold-over relief for gains re-invested in social enterprises**

Schedule 8B to this Act (which provides relief in respect of gains re-invested in social enterprises) has effect.

### **255B Gains and losses on investments in social enterprises**

- (1) For the purpose of determining the gain or loss on any disposal of an asset by an individual where—
  - (a) an amount of SI relief is attributable to the asset, and
  - (b) apart from this subsection there would be a loss,treat the consideration given by the individual for the acquisition of the asset as reduced by the amount of the SI relief.
- (2) If—
  - (a) an individual disposes of an asset,
  - (b) an amount of SI relief is attributable to the asset,
  - (c) the disposal takes place after the end of the 3 years beginning with the day when the individual acquired the asset, and
  - (d) apart from this subsection, there would be a gain on the disposal,the gain is not a chargeable gain, subject to section 255C.
- (3) Despite section 16(2), subsection (2) above does not apply to a disposal on which a loss accrues.
- (4) Any question as to—
  - (a) which of any assets acquired by an individual at different times a disposal relates to, being assets to which SI relief is attributable, or
  - (b) whether a disposal relates to assets to which SI relief is attributable or to other assets,is to be determined for the purposes of capital gains tax as provided by section 257TA of ITA 2007.
- (5) Chapter 1 of this Part has effect subject to subsection (4).
- (6) Sections 104, 105 and 106A do not apply to assets to which SI relief is attributable.
- (7) There are to be made all such adjustments of capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of SI relief being given or withdrawn.
- (8) In this section and sections 255C to 255E “SI relief” means relief under Part 5B of ITA 2007 (income tax relief for investments in social enterprises).
- (9) That Part applies for the purposes of this section and sections 255C to 255E to determine whether SI relief is attributable to any asset and, if so, the amount of SI relief so attributable.

### **255C Application of section 255B(2) where maximum SI relief not obtained**

- (1) Subsection (2) applies if—
  - (a) an individual's liability to income tax has been reduced (or treated by virtue of section 257T of ITA 2007 (spouses or civil partners) as reduced) for any tax

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year under section 257JA of ITA 2007 (SI relief) in respect of the acquisition of an asset,

- (b) the amount of the reduction (“D”) is less than the amount given by—

$$I \times R$$

where—

I is the amount on which the individual has SI relief in the case of the asset, and

R is the SI rate for the tax year for which the SI relief was obtained, and

- (c) D is not within paragraph (b) solely by virtue of section 29(2) and (3) of ITA 2007.

- (2) If the individual disposes of the asset and there is a gain on the disposal, section 255B(2) has effect in relation to the gain as if it were reduced by multiplying it by—

$$D I \times R$$

- (3) In this section “SI rate” has the meaning given by section 257JA(5) of ITA 2007.

#### **255D Application of section 255B(2) where SI relief has been reduced**

- (1) Subsection (2) applies if before a disposal of an asset—

- (a) value is received in circumstances where SI relief attributable to the asset is reduced by an amount under section 257Q(1)(a) of ITA 2007, or
- (b) there is a repayment, redemption, repurchase or payment in circumstances where SI relief attributable to the asset is reduced by an amount under section 257QJ(2)(a) of ITA 2007, or
- (c) paragraphs (a) and (b) both apply.

- (2) If section 255B(2) applies on the disposal but section 255C does not, section 255B(2) applies only to so much of the gain as remains after deducting so much of it as is found by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

A is equal to the amount by which the SI relief given in respect of the asset is reduced as mentioned in subsection (1) above, and

B is equal to the amount of the SI relief given in respect of the asset.

- (3) If sections 255B(2) and 255C apply on the disposal, section 255B(2) applies only to so much of the gain as is found by—

- (a) taking the part of the gain found under section 255C, and
- (b) deducting from that part so much of it as is found by multiplying it by the fraction mentioned in subsection (2).

- (4) If the SI relief given in respect of the asset is reduced as mentioned in subsection (1) by more than one amount, the amount referred to as A in subsection (2) is to be taken to be equal to the aggregate of those amounts.

- (5) The amount referred to in subsection (2) as B is to be found without regard to any reduction mentioned in subsection (1).

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## **255E Reorganisations involving shares to which SI relief is attributable**

- (1) Subsection (2) applies if an individual holds shares which form part of the ordinary share capital of a company and include shares of more than one of the following kinds—
  - (a) shares to which SI relief is attributable and to which subsection (3) applies,
  - (b) shares to which SI relief is attributable and to which subsection (3) does not apply, and
  - (c) shares to which SI relief is not attributable and to which subsection (3) does not apply.
- (2) If there is a reorganisation within the meaning of section 126 affecting the shares listed in subsection (1), section 127 applies separately to those shares so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding.
- (3) This subsection applies to any shares if—
  - (a) expenditure on the shares has been set under Schedule 8B to this Act against the whole or part of any gain, and
  - (b) in relation to the shares there has been no chargeable event for the purposes of that Schedule.
- (4) If—
  - (a) an individual holds shares (“the existing holding”) which form part of the ordinary share capital of a company,
  - (b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation affecting the existing holding, and
  - (c) immediately following the reorganisation, SI relief is attributable to the existing holding or the allotted shares,sections 127 to 130 do not apply in relation to the existing holding.
- (5) Subject to subsection (6), sections 135 and 136 do not apply in respect of shares to which SI relief is attributable.
- (6) Subsection (5) does not have effect to disapply section 135 or 136 in a case where the original shares are shares to which SI relief is attributable if—
  - (a) the new holding consists of new ordinary shares which meet conditions A and B of section 257L of ITA 2007,
  - (b) the new shares are issued after the end of three years beginning with the day on which the original shares were acquired,
  - (c) before issuing the new shares, the company had issued shares which met conditions A and B of section 257L of ITA 2007, and
  - (d) the company issued a compliance certificate in relation to those earlier shares for the purposes of section 257PA(1) of ITA 2007 and in accordance with sections 257PB and 257PC of ITA 2007.
- (7) In subsection (6) “new holding” is to be construed in accordance with sections 126, 127, 135 and 136.
- (8) In this section—

“ordinary share capital” has the meaning given in section 989 of ITA 2007;  
“ordinary shares”, in relation to a company, means shares forming part of its ordinary share capital.]

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

**256 Charities.**

- (1) Subject to <sup>F173</sup>... [<sup>F174</sup>the following provisions of this section], 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.
- <sup>F175</sup>(3) Subsection (4) below applies if a charitable trust has a non-exempt amount under section 540 of ITA 2007 for a year of assessment.
- [ Subsection (4) below also applies if a charitable company has a non-exempt amount <sup>F176</sup>(3A) under section 493 of CTA 2010 for an accounting period.]
- <sup>F177</sup>(4) Gains accruing—
- (a) to the charitable trust in the year of assessment, or
  - (b) to the charitable company in the accounting period,
- are treated as being, and always having been, chargeable gains so far as they are attributed to the non-exempt amount under section 256A (in the case of a charitable trust) or section 256C (in the case of a charitable company).]
- (5) For restrictions on exemptions under Part 10 of ITA 2007 (special rules about charitable trusts etc) see section 539 of that Act.]
- <sup>F178</sup>(6) .....
- <sup>F179</sup>(7) For restrictions on exemptions under Part 11 of CTA 2010 (charitable companies etc) see section 492 of that Act.
- <sup>F180</sup>(8) ..... ]

**Textual Amendments**

- F173** Words in s. 256(1) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 254\(2\), Sch. 3 Pt. 1](#) (with Sch. 2)
- F174** Words in s. 256(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 326\(2\)](#) (with Sch. 2)
- F175** S. 256(3)-(5) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 326\(3\)](#) (with Sch. 2)
- F176** S. 256(3A) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 254\(3\)](#) (with Sch. 2)
- F177** S. 256(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 254\(4\)](#) (with Sch. 2)

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**F178** S. 256(6) omitted (with effect in accordance with S.I. 2012/736, art. 9) by virtue of Finance Act 2010 (c. 13), **Sch. 6 paras. 13(3), 34(2)**; S.I. 2012/736, art. 9

**F179** S. 256(7)(8) inserted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 254(5)** (with Sch. 2)

**F180** S. 256(8) omitted (with effect in accordance with S.I. 2012/736, art. 9) by virtue of Finance Act 2010 (c. 13), **Sch. 6 paras. 13(3), 34(2)**; S.I. 2012/736, art. 9

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

**C37** S. 256(4) excluded (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), **ss. 515(7), 1184(1)** (with Sch. 2)

[<sup>F181</sup>**256A**Attributing gains to the non-exempt amount]<sup>F182</sup>: charitable trusts]

- (1) This section applies if a charitable trust has a non-exempt amount under section 540 of ITA 2007 for a year of assessment.
- (2) Attributable gains of the charitable trust for the year of assessment may be attributed to the non-exempt amount but only so far as the non-exempt amount has not been used up.
- (3) The non-exempt amount can be used up (in whole or in part) by—
  - (a) attributable gains being attributed to it under this section, or
  - (b) attributable income being attributed to it under section 541 of ITA 2007.
- (4) The whole of the non-exempt amount must be used up by—
  - (a) attributable gains being attributed to the whole of it under this section,
  - (b) attributable income being attributed to the whole of it under section 541 of ITA 2007, or
  - (c) a combination of attributable gains being attributed to some of it under this section and attributable income being attributed to the rest of it under section 541 of ITA 2007.
- (5) See section 256B for the way in which gains are to be attributed to the non-exempt amount under this section.
- (6) In this section and section 256B a charitable trust's “attributable income”, and “attributable gains”, for a tax year have the same meaning as in Part 10 of ITA 2007 (see section 540 of that Act).

**Textual Amendments**

**F181** Ss. 256A, 256B inserted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 327** (with Sch. 2)

**F182** Words in s. 256A heading inserted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 255** (with Sch. 2)

**256B** How gains are attributed to the non-exempt amount]<sup>F183</sup>: charitable trusts]

- (1) This section is about the ways in which attributable gains can be attributed to a non-exempt amount under section 256A.

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

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- (2) The trustees of the charitable trust may specify the attributable gains that are to be attributed to the non-exempt amount.
- (3) A specification under subsection (2) is made by notice to an officer of Revenue and Customs.
- (4) Subsection (6) applies if—
  - (a) an officer of Revenue and Customs requires the trustees of a charitable trust to make a specification under this section, and
  - (b) the trustees have not given notice under subsection (3) of the specification before the end of the required period.
- (5) The required period is 30 days beginning with the day on which the officer made the requirement.
- (6) An officer of Revenue and Customs may determine the attributable gains that are to be attributed to the non-exempt amount.]

#### **Textual Amendments**

**F181** Ss. 256A, 256B inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 327](#) (with [Sch. 2](#))

**F183** Words in s. 256B title inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 256](#) (with [Sch. 2](#))

#### **[<sup>F184</sup>256C] Attributing gains to the non-exempt amount: charitable companies**

- (1) This section applies if a charitable company has a non-exempt amount under section 493 of CTA 2010 for an accounting period.
- (2) Attributable gains of the charitable company for the period may be attributed to the non-exempt amount but only so far as the non-exempt amount has not been used up.
- (3) The non-exempt amount can be used up (in whole or in part) by—
  - (a) attributable gains being attributed to it under this section, or
  - (b) attributable income being attributed to it under section 494 of CTA 2010.
- (4) The whole of the non-exempt amount must be used up by—
  - (a) attributable gains being attributed to the whole of it under this section,
  - (b) attributable income being attributed to the whole of it under section 494 of CTA 2010, or
  - (c) a combination of attributable gains being attributed to some of it under this section and attributable income being attributed to the rest of it under section 494 of CTA 2010.
- (5) In this section and section 256D a charitable company's “attributable income” and “attributable gains” for an accounting period have the same meaning as in Part 11 of CTA 2010 (see section 493 of that Act).

<sup>F185</sup>(6) .....

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

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#### Textual Amendments

**F184** Ss. 256C, 256D inserted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 257** (with Sch. 2)

**F185** S. 256C(6) omitted (with effect in accordance with S.I. 2012/736, art. 9) by virtue of Finance Act 2010 (c. 13), **Sch. 6 paras. 13(4)**, 34(2); S.I. 2012/736, art. 9

### 256D How gains are attributed to the non-exempt amount: charitable companies

- (1) This section is about the ways in which attributable gains can be attributed to a non-exempt amount under section 256C.
- (2) The charitable company may specify the attributable gains that are to be attributed to the non-exempt amount.
- (3) A specification under subsection (2) is made by notice to an officer of Revenue and Customs.
- (4) Subsection (6) applies if—
  - (a) an officer of Revenue and Customs requires a charitable company to make a specification under this section, and
  - (b) the charitable company has not given notice under subsection (3) of the specification before the end of the required period.
- (5) The required period is 30 days beginning with the day on which the officer made the requirement.
- (6) An officer of Revenue and Customs may determine the attributable gains that are to be attributed to the non-exempt amount.

<sup>F186</sup>(7) . . . . . ]

#### Textual Amendments

**F184** Ss. 256C, 256D inserted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 257** (with Sch. 2)

**F186** S. 256D(7) omitted (with effect in accordance with S.I. 2012/736, art. 9) by virtue of Finance Act 2010 (c. 13), **Sch. 6 paras. 13(5)**, 34(2); S.I. 2012/736, art. 9

### 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 [<sup>F187</sup>or a registered club], or
  - (b) to any bodies mentioned in Schedule 3 to the <sup>M8</sup>Inheritance Tax Act 1984 (gifts for national purposes, etc)

[<sup>F188</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—

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- (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.
- [<sup>F189</sup>(2A) Subsection (2B) applies if relief is available under Chapter 3 of Part 8 of ITA 2007 or [<sup>F190</sup>as a result of Chapter 3 of Part 6 of CTA 2010] (gifts of shares, securities and real property to charities) in relation to the disposal of a qualifying investment to a charity (whether or not a claim for relief is actually made).
- (2B) The consideration for which the charity's acquisition of the qualifying investment is treated by virtue of subsection (2) above as having been made—
- [<sup>F191</sup>(a) is reduced by the relievable amount within the meaning of Chapter 3 of Part 8 of ITA 2007 if relief in relation to the disposal is available only under that Chapter,
  - (b) is reduced by the relievable amount within the meaning of Chapter 3 of Part 6 of CTA 2010 if relief in relation to the disposal is available only as a result of that Chapter,
  - (c) is reduced by the relievable amount within the meaning of Chapter 3 of Part 8 of ITA 2007 if relief in relation to the disposal is available both under that Chapter and as a result of Chapter 3 of Part 6 of CTA 2010 because of section 442 of ITA 2007 and section 214 of CTA 2010, or]
  - (d) is reduced to nil if that consideration is less than the amount referred to in paragraph (a), (b) or (c) (as the case may be).
- (2C) In subsections (2A) and (2B)—
- “qualifying investment” has the same meaning as in Chapter 3 of Part 8 of ITA 2007 (see section 432 of that Act),
- <sup>F192</sup> .....
- <sup>F192</sup> .....
- (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
  - (b) the person becoming entitled as mentioned in section 71(1) is a charity, [<sup>F193</sup>a registered club] 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[<sup>F194</sup>, registered club] or other body becomes so entitled, the disposal and reacquisition of the assets to which the charity[<sup>F194</sup>, registered club] 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.



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[<sup>F195</sup>(5) For the purposes of this section “registered club” has the same meaning as in Chapter 9 of Part 13 of CTA 2010.]

#### Textual Amendments

- F187** Words in s. 257(1)(a) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 258(2)** (with [Sch. 2](#))
- F188** 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)
- F189** S. 257(2A)-(2C) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 328** (with [Sch. 2](#))
- F190** Words in s. 257(2A) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 258(3)** (with [Sch. 2](#))
- F191** S. 257(2B)(a)-(c) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 258(4)** (with [Sch. 2](#))
- F192** Words in s. 257(2C) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 258(5)**, **Sch. 3 Pt. 1** (with [Sch. 2](#))
- F193** Words in s. 257(3) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 258(6)(a)** (with [Sch. 2](#))
- F194** Words in s. 257(3) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 258(6)(b)** (with [Sch. 2](#))
- F195** S. 257(5) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 258(7)** (with [Sch. 2](#))

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

- C38** 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

- M8** 1984 c. 51.

[<sup>F196</sup>257A] **Tainted charity donations**

- (1) Section 257 does not apply in relation to—
- a tainted donation made by a person, or
  - any associated donation.
- (2) For the purposes of this section—
- “tainted donation” means a tainted donation within the meaning of Chapter 8 of Part 13 of ITA 2007 (tainted charity donations: removal of income tax reliefs etc) or Part 21C of CTA 2010 (tainted charity donations: removal of corporation tax relief), and
  - “associated donation” means an associated donation within the meaning of section 809ZM of ITA 2010 or section 939F of CTA 2010.]

#### Textual Amendments

- F196** S. 257A inserted (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 3 para. 3**

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## 258 Works of art etc.

<sup>F197</sup>(1) .....

[<sup>F198</sup>(1A) A gain is not a chargeable gain if it accrues on a disposal made in the circumstances described in paragraph 1 of Schedule 14 to the Finance Act 2012 (gifts to the nation).]

(2) A gain shall not be a chargeable gain if it accrues on the disposal of an asset [<sup>F199</sup>which is property which has been or could be designated under section 31 of the Inheritance Tax Act 1984 (“the 1984 Act”) (designation and undertakings)] and—

- (a) the disposal is by way of sale by private treaty to a body mentioned in Schedule 3 to [<sup>F200</sup>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 <sup>F201</sup>... (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.

(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.

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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>F202</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.

#### Textual Amendments

**F197** 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](#)

**F198** S. 258(1A) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 14 para. 34](#)

**F199** Words in s. 258(2) substituted (with effect in accordance with art. 12(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), [12\(1\)\(a\)](#)

**F200** Words in s. 258(2)(a) substituted (with effect in accordance with art. 12(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), [12\(1\)\(b\)](#)

**F201** Words in s. 258(2)(b) omitted (with effect in accordance with art. 12(2) of the amending S.I.) by virtue of [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), [12\(1\)\(c\)](#)

**F202** 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\(1\)](#)

## 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>F203</sup>relevant housing provider] 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 [<sup>F204</sup>relevant housing provider].

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- (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 [<sup>F205</sup>relevant housing provider], its acquisition by the person making the earlier disposal shall be treated for the purposes of this Act as the acquisition of the [<sup>F205</sup>relevant housing provider].
- [<sup>F206</sup>(3) In this section “relevant housing provider” means—
- (a) a non-profit registered provider of social housing,
  - (b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996,
  - (c) a body registered in the register maintained under [<sup>F207</sup>section 20(1) of the Housing (Scotland) Act 2010], or
  - (d) a registered housing association within the meaning of Part 2 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

- F203** Words in s. 259(1)(a) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 9 para. 19\(2\)](#); S.I. 2010/862, art. 2 (with Sch.)
- F204** Words in s. 259(1)(b) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 9 para. 19\(3\)](#); S.I. 2010/862, art. 2 (with Sch.)
- F205** Words in s. 259(2)(b) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 9 para. 19\(3\)](#); S.I. 2010/862, art. 2 (with Sch.)
- F206** S. 259(3) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 9 para. 19\(4\)](#); S.I. 2010/862, art. 2 (with Sch.)
- F207** Words in s. 259(3)(c) substituted (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), [Sch. para. 4\(4\)](#)

## 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 [<sup>F208</sup>sections 169[<sup>F209</sup>, 169B, 169C][<sup>F210</sup>, 261 and 261ZA]], subsection (3) below shall apply in relation to the disposal.

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- (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>M9</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>F211</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,
  - <sup>F212</sup>(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,
- 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

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(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>F213</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>F214</sup>(6ZA) Subsections (6ZB) and (6ZC) apply in any case where—

- (a) the disposal is a <sup>F215</sup>direct or indirect disposal of UK land which meets the non-residence condition], and
- (b) the transferee is resident in the United Kingdom.

(6ZB) Subsections (3) and (4) have effect in relation to the disposal as if the reference to “chargeable gain” were <sup>F216</sup>a reference to “so much of any gain accruing on the disposal as falls to be dealt with as mentioned in subsection (6ZD)(a) or (b)”].

(6ZC) Subsection (5) has effect in relation to the disposal as if the reference to “the excess referred to in paragraph (b) above” were a reference to <sup>F217</sup>“so much of the gain mentioned in subsection (6ZB)] which, ignoring this section and section 17(1), would accrue to the transferor on the disposal”.]

<sup>F218</sup>(6ZD) For the purposes of subsections (6ZA) to (6ZC) a disposal is a “direct or indirect disposal of UK land which meets the non-residence condition” if it is—

- (a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection, or
- (b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c).]

<sup>F219</sup>(6A) . . . . .

<sup>F220</sup>(6B) . . . . .

(7) In the case of a disposal within subsection (2)(a) above <sup>F221</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.

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### Textual Amendments

- F208** 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\(2\)](#)
- F209** 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\(2\)](#)
- F210** Words in s. 260(1) substituted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 7 para. 31\(2\)](#)
- F211** 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](#)
- F212** S. 260(2)(da)(db) inserted (retrospective to 22.3.2006) by [Finance Act 2006 \(c. 25\), Sch. 20 paras. 29\(2\), 32](#)
- F213** 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\(31\)](#)
- F214** S. 260(6ZA)-(6ZC) inserted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 7 para. 31\(3\)](#)
- F215** Words in s. 260(6ZA)(a) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 1 para. 76\(2\)](#)
- F216** Words in s. 260(6ZB) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 1 para. 76\(3\)](#)
- F217** Words in s. 260(6ZC) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 1 para. 76\(4\)](#)
- F218** S. 260(6ZD) inserted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 1 para. 76\(5\)](#)
- F219** 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\(14\)](#)
- F220** 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\(14\)](#)
- F221** 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\(5\)](#)

### Modifications etc. (not altering text)

- C39** S. 260 modified by The Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964), reg. 85Z3 (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2010/294, regs. 1\(1\), 21](#))

### Marginal Citations

- M9** [1984 c. 51.](#)

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

- (1) [<sup>F222</sup>Subject to section 261ZA, section 260(3)] shall not apply where the transferee is [<sup>F223</sup>not resident] in the United Kingdom.
- (2) Section 260(3) shall not apply where the transferee is an individual who—
- (a) though resident <sup>F224</sup>... 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

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- (b) 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.

#### Textual Amendments

- F222** Words in s. 261(1) substituted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 7 para. 32](#)
- F223** Words in s. 261(1) substituted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 104\(2\)](#)
- F224** Words in s. 261(2)(a) omitted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 104\(3\)](#)

#### <sup>F225</sup>261ZA Gifts of <sup>F226</sup>direct or indirect interests in UK land] to non-residents

- (1) This section applies where the disposal in relation to which a claim could be made under section 260 is a disposal <sup>F227</sup>of an asset within section 1A(3)(b) or (c)] to a transferee who is not resident in the United Kingdom and, ignoring section 260—
- (a) a gain would accrue to the transferor on the disposal, and
- <sup>F228</sup>(b) on the assumption that the disposal is a direct or indirect disposal of UK land which meets the non-residence condition (whether or not that is the case), that gain would be a relevant gain (see subsections (6) and (7)).]
- (2) Section 260(3) has effect in relation to the disposal as if it read—
- “(3) Where this subsection applies in relation to a disposal, the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, shall be reduced by an amount equal to the held-over gain on the disposal.”
- (3) Where the disposal is a <sup>F229</sup>direct or indirect disposal of UK land which meets the non-residence condition]—
- (a) section 260(3), as modified by subsection (2) of this section, and section 260(4) have effect in relation to the disposal as if the references to “chargeable gain” were references to <sup>F230</sup>“relevant gain”], and
- (b) section 260(5) has effect in relation to the disposal as if the reference to “the excess referred to in paragraph (b) above” were a reference to <sup>F231</sup>“the relevant gain] which, ignoring this section and section 17(1), would accrue to the transferor on the disposal”.
- (4) Where a claim for relief is made under section 260 in relation to the disposal mentioned in subsection (1), on a subsequent disposal by the transferee of the whole or part of <sup>F232</sup>the asset within section 1A(3)(b) or (c)] which is the subject of the disposal mentioned in subsection (1), the whole or a corresponding part of the held-over gain (see section 260(4))—
- (a) is deemed to accrue to the transferee (in addition to any gain or loss that actually accrues on that subsequent disposal), and
- (b) (if that would not otherwise be the case) is to be treated as <sup>F233</sup>a relevant gain] accruing on <sup>F234</sup>a direct or indirect disposal of UK land which meets the non-residence condition].



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- (5) Where the subsequent disposal mentioned in subsection (4) is a disposal within section 260(2)(a), subsection (7) of that section has effect in relation to the disposal as if—
- (a) the reference to “the chargeable gain accruing to the transferee on the disposal of the asset” were a reference to the chargeable gain accruing on the disposal as computed apart from subsection (4), and
  - (b) the reference in section 260(7)(b) to “the chargeable gain” were a reference to—
    - (i) the chargeable gain (or, where the disposal is <sup>[F235]</sup>a direct or indirect disposal of UK land which meets the non-residence condition], <sup>[F236]</sup>the relevant gain]) accruing on the disposal, and
    - (ii) the held-over gain deemed to accrue under subsection (4).
- <sup>[F237]</sup>(6) For the purposes of this section, a disposal is a “direct or indirect disposal of UK land which meets the non-residence condition” if it is—
- (a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection, or
  - (b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c).
- (7) For the purposes of this section, a “relevant gain” means so much of any chargeable gain accruing on a disposal as falls to be dealt with as mentioned in subsection (6) (a) or (b).]]

#### Textual Amendments

- F225** S. 261ZA inserted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 7 para. 33](#)
- F226** Words in s. 261ZA heading substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(7\)](#)
- F227** Words in s. 261ZA(1) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(2\)\(a\)](#)
- F228** S. 261ZA(1)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(2\)\(b\)](#)
- F229** Words in s. 261ZA(3) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(3\)\(a\)](#)
- F230** Words in s. 261ZA(3)(a) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(3\)\(b\)](#)
- F231** Words in s. 261ZA(3)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(3\)\(c\)](#)
- F232** Words in s. 261ZA(4) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(4\)\(a\)](#)
- F233** Words in s. 261ZA(4)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(4\)\(b\)\(i\)](#)
- F234** Words in s. 261ZA(4)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(4\)\(b\)\(ii\)](#)
- F235** Words in s. 261ZA(5)(b)(i) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(5\)\(a\)](#)
- F236** Words in s. 261ZA(5)(b)(i) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(5\)\(b\)](#)

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**F237** S. 261ZA(6)(7) substituted for s. 261ZA(6) (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 77\(6\)](#)

### *[<sup>F238</sup> Know-how*

#### **Textual Amendments**

**F238** 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) a person carrying on a trade receives consideration for the disposal of know-how which has been used in the trade, and
  - (b) 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) a capital receipt for goodwill (in relation to the person disposing of the know-how), or
  - (b) 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.]

### *[<sup>F239</sup> Deduction of trading losses or post-cessation expenditure etc*

#### **Textual Amendments**

**F239** Ss. 261B-261E and cross-heading inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 329](#) (with [Sch. 2](#))

## **261B Treating trade loss etc as CGT loss**

- (1) A person may make a claim under this section if—
- (a) relief is available to the person under section 64 or 128 of ITA 2007 (trade or employment loss relief against general income) for a tax year in relation to an amount of loss, and
  - (b) the person makes a claim under that section for the amount to be deducted in calculating the person's net income for the tax year.
- (2) A person may also make a claim under this section if—
- (a) relief is available to the person as mentioned in subsection (1)(a) for a tax year in relation to an amount of loss, but
  - (b) the person's total income for the tax year is nil or does not include any income from which the amount can be deducted.

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- (3) A claim under this section is for determining so much of the amount of the loss (“the relevant amount”) as—
  - (a) is not deducted in calculating the person's net income for the tax year, and
  - (b) has not already been taken into account for the purposes of any relief for any other tax year or any year of assessment (whether under ITA 2007, this section or otherwise).
- (4) When the relevant amount can no longer be varied—
  - (a) by the [<sup>F240</sup>tribunal] on appeal, or
  - (b) on the order of a court,it is treated for the purposes of capital gains tax as an allowable loss accruing to the person in the year of assessment corresponding to the tax year.
- (5) But so much of the relevant amount as exceeds the maximum amount (see section 261C) is not to be treated for the purposes of capital gains tax as an allowable loss.
- (6) The excess may, however, be used in giving effect to any other loss relief under Part 4 of ITA 2007 (depending on the terms of the relief).
- (7) The amount treated as an allowable loss under this section—
  - (a) is no longer to be regarded as an amount available for income tax relief, and
  - (b) is not to be deductible from chargeable gains accruing to a person in any year of assessment that begins after the person has permanently ceased to carry on the trade, profession, vocation, employment or office in which the loss was made.
- (8) A claim under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the loss was made in the trade, profession, vocation, employment or office.
- (9) In this section “normal self-assessment filing date”, “tax year” and “total income” have the same meaning as in the Income Tax Acts (see section 989 of ITA 2007).

#### Textual Amendments

**F240** Word in s. 261B(4)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 182**

### 261C Meaning of “the maximum amount” for purposes of section 261B

- (1) For the purposes of section 261B “the maximum amount” is the amount on which the person would be chargeable to capital gains tax for the year of assessment if—
  - (a) the provisions mentioned below were ignored, and
  - (b) no account were taken of the event mentioned below.
- (2) The provisions are—
  - <sup>F241</sup>(a) .....
  - (b) [<sup>F242</sup>section 1K(1)] (annual exempt amount), and
  - (c) section 261B.
- (3) The event is any event—

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- (a) which occurs after the date on which the relevant amount (see section 261B(3)) can no longer be varied by the [<sup>F243</sup>tribunal] on appeal or on the order of a court, and
- (b) in consequence of which the amount chargeable to capital gains tax is reduced as a result of an enactment relating to capital gains tax.

#### **Textual Amendments**

**F241** S. 261C(2)(a) omitted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 39](#)

**F242** Words in s. 261C(2)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 78](#)

**F243** Word in s. 261C(3)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 183](#)

### **261D Treating excess post-cessation trade or property relief as CGT loss**

- (1) A person may make a claim under this section if—
  - (a) relief is available to the person under section 96 or 125 of ITA 2007 (post-cessation trade or property relief) for a tax year in relation to an amount, and
  - (b) the person makes a claim under that section to deduct the amount in calculating the person's net income for the tax year.
- (2) A person may also make a claim under this section if—
  - (a) relief is available to the person as mentioned in subsection (1)(a) for a tax year in relation to an amount, but
  - (b) the person's total income for the tax year is nil.
- (3) A claim under this section is for treating for the purposes of capital gains tax so much of the amount as is not deducted in calculating the person's net income for the tax year (“the relevant amount”) as an allowable loss accruing to the person in the year of assessment corresponding to the tax year.
- (4) But so much of the relevant amount as exceeds the maximum amount (see section 261E) is not to be treated for the purposes of capital gains tax as an allowable loss.
- (5) The relevant amount is no longer to be regarded as an amount available for income tax relief.
- (6) A claim under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year mentioned in subsection (1) or (2) (as the case may be).
- (7) In this section “normal self-assessment filing date”, “tax year” and “total income” have the same meaning as in the Income Tax Acts (see section 989 of ITA 2007).

### **261E Meaning of “the maximum amount” for purposes of section 261D**

- (1) For the purposes of section 261D “the maximum amount” is the amount on which the person would be chargeable to capital gains tax for the year of assessment if the following were ignored.

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- (2) The matters to be ignored are—
- (a) any allowable losses falling to be carried forward to that year from a previous year for the purposes of [<sup>F244</sup>section 1(3)],
  - (b) [<sup>F245</sup>section 1K(1)] (annual exempt amount), and
  - (c) any relief under section 261B or 261D.]

#### Textual Amendments

**F244** Words in s. 261E(2)(a) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 79\(a\)](#)

**F245** Words in s. 261E(2)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 79\(b\)](#)

#### [<sup>F246</sup>Repurchase price under repos

#### Textual Amendments

**F246** S. 261F and cross-heading inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 330](#) (with [Sch. 2](#))

### 261F Deemed manufactured payments: effect on repurchase price

- (1) This section applies if —
- (a) the repurchase price of UK shares, UK securities or overseas securities is treated by section 604(2), (4) or (5) of ITA 2007 (deemed increase in repurchase price: repos and options) as increased for the purposes of section 607 of that Act (treatment of price differences under repos),
  - (b) condition A or B is met, and
  - (c) section 263A does not apply.
- (2) Condition A is that, as a result of the increase, there is no difference for the purposes of section 607 of that Act between the sale price and the repurchase price.
- (3) Condition B is that, as a result of an exception in section 608 of that Act, section 607 of that Act does not apply.
- (4) The deemed increase of the repurchase price also has effect for capital gains tax purposes.
- (5) Expressions used in this section and in section 605 of ITA 2007 (deemed increase in repurchase price: other income tax purposes) have the same meanings in this section as in that section.]

### [<sup>F247</sup>261G Price differences under repos: effect on repurchase price

- (1) Subsections (2) and (3) apply if—
- (a) section 607 of ITA 2007 (treatment of price differences under repos) applies,
  - (b) an amount is treated under that section as a payment of interest, and
  - (c) section 263A does not apply.

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- (2) If the repurchase price is more than the sale price, the repurchase price is treated for capital gains tax purposes as reduced by the amount of the payment of interest.
- (3) If the sale price is more than the repurchase price, the repurchase price is treated for capital gains tax purposes as increased by the amount of the payment of interest.
- (4) Expressions used in this section and in section 609 of ITA 2007 (additional income tax consequences of price differences under repos) have the same meanings in this section as in that section.]

#### Textual Amendments

**F247** S. 261G inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 331](#) (with [Sch. 2](#))

#### [<sup>F248</sup>**261H** Power to modify section 261G in non-arm's length case

- (1) The Treasury may by regulations provide for section 261G to apply with modifications if the exception in section 608(2) of ITA 2007 (agreement not at arm's length) would otherwise prevent it from applying.
- (2) Regulations under this section may make different provision for different cases.
- (3) Regulations under this section may contain incidental, supplemental, consequential and transitional provision and savings.
- (4) The incidental, supplemental, and consequential provision may include modifications of section 261F (deemed manufactured payments: effect on repurchase price).
- (5) In this section “modifications” includes exceptions and omissions.
- (6) Accordingly, the power in subsection (1) includes power to provide for any provision of section 261G not to apply in relation to the case mentioned in that subsection.]

#### Textual Amendments

**F248** S. 261H inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 332](#) (with [Sch. 2](#))

### *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.

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- (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.

## **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>F249</sup>263A] Renewables obligation certificates for domestic microgeneration**

- (1) A gain accruing to an individual on a disposal of a renewables obligation certificate is not a chargeable gain if—
- (a) the individual acquired the certificate in connection with the generation of electricity by a microgeneration system,
  - (b) the system is installed at or near domestic premises occupied by the individual, and



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- (c) the individual intends that the amount of electricity generated by it will not significantly exceed the amount of electricity consumed in those premises.
- (2) In subsection (1)—
- “domestic premises” means premises used wholly or mainly as a separate private dwelling,
- [<sup>F250</sup>“microgeneration system” means any plant (including any equipment, apparatus or appliance) or system of plant for generating electricity or producing heat—
- (a) which, in generating electricity or (as the case may be) producing heat, relies wholly or mainly on a source of energy or a technology mentioned in subsection (7) of section 82 of the Energy Act 2004, and
- (b) whose capacity to generate electricity or (as the case may be) to produce heat does not exceed the capacity mentioned in subsection (8) of that section,]
- “renewables obligation certificate” means a certificate issued under section 32B of the Electricity Act 1989 or Article 54 of the Energy (Northern Ireland) Order 2003.]

#### Textual Amendments

**F249** S. 263AZA inserted (with effect in accordance with s. 21(4) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), s. 21(2)

**F250** Words in s. 263AZA(2) substituted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), ss. 57(3)(a), 115(3)(e)

#### [<sup>F251</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 [<sup>F252</sup>in calculating net income] in respect of liabilities related to the former employment) [<sup>F253</sup>in calculating a former employee's net income] for a tax year, and
- (b) the total amount which may be deducted exceeds [<sup>F254</sup>the remaining 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) [<sup>F255</sup>the remaining total income].
- [ In this section “the remaining total income”, in relation to a tax year, means the former
- <sup>F256</sup>(2A) employee's total income for the tax year less reliefs already deducted for the tax year at Step 2 of the calculation in section 23 of ITA 2007 for the purpose of calculating the former employee's income tax liability.]
- (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.



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- (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 [F257 section 1(3)],
  - (c) [F258 section 1K(1)] (the annual exempt amount),
  - (d) any relief [F259 under section 261B] (deduction of trading losses), and
  - (e) any relief [F260 under section 261D] (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

- F251** 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](#))
- F252** Words in s. 263ZA(1)(a) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 333\(2\)\(a\)](#) (with [Sch. 2](#))
- F253** Words in s. 263ZA(1)(a) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 333\(2\)\(b\)](#) (with [Sch. 2](#))
- F254** Words in s. 263ZA(1)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 333\(3\)](#) (with [Sch. 2](#))
- F255** Words in s. 263ZA(2)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 333\(4\)](#) (with [Sch. 2](#))
- F256** S. 263ZA(2A) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 333\(5\)](#) (with [Sch. 2](#))
- F257** Words in s. 263ZA(5)(b) substituted (with effect in accordance with [Sch. 1 paras. 120, 123](#) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 80\(a\)](#)
- F258** Words in s. 263ZA(5)(c) substituted (with effect in accordance with [Sch. 1 paras. 120, 123](#) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 80\(b\)](#)
- F259** Words in s. 263ZA(5)(d) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 333\(6\)\(a\)](#) (with [Sch. 2](#))
- F260** Words in s. 263ZA(5)(e) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 333\(6\)\(b\)](#) (with [Sch. 2](#))

#### [F261 263A[F262] Agreements for sale and repurchase of securities: capital gains tax]

[ For the purposes of this section there is a repo in respect of securities if—

- <sup>F263</sup>(A1) (a) a person (“the original owner”) has agreed to sell the securities to another person (“the interim holder”), and
- (b) the original owner or a person connected with the original owner—
- (i) is required to buy back the securities by the agreement or a related agreement,
  - (ii) is required to buy back the securities as a result of the exercise of an option acquired under the agreement or a related agreement, or

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(iii) exercises an option to buy back the securities which was acquired under the agreement or a related agreement.]

(1) [<sup>F264</sup>Subject to subsections (3) and (4) below, in any case [<sup>F265</sup>where under a repo in respect of securities the original owner has transferred the securities to the interim holder]]—

- (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.

[ If, at any time after the acquisition mentioned in subsection (1)(a) above, it becomes <sup>F266</sup>(1A) apparent that the interim holder will not dispose of the securities to the repurchaser, the interim holder shall be treated for the purposes of capital gains tax as acquiring them at that time for a consideration equal to their market value at that time.

(1B) If, at any time after the disposal mentioned in subsection (1)(b) above, it becomes apparent that the original owner will not acquire the securities as the repurchaser, the original owner shall be treated for the purposes of capital gains tax as disposing of them at that time for a consideration equal to their market value at that time.]

<sup>F267</sup>(2) .....

(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.

<sup>F268</sup>[<sup>F269</sup>(5) .....

(6) This section does not apply for the purposes of corporation tax in respect of chargeable gains.]]

#### Textual Amendments

**F261** S. 263A inserted (with effect in accordance with s. 80(5) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 80\(4\)](#)

**F262** S. 263A heading substituted (with effect in relation to an arrangement that comes into force on or after 1.10.2007) by [Finance Act 2007 \(c. 11\)](#), s. 47(4), [Sch. 14 para. 12\(6\)](#); [S.I. 2007/2483](#), art. 3

**F263** S. 263A(A1) inserted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 12 para. 9\(2\)](#)

**F264** Words in s. 263A(1) substituted (with effect in relation to an arrangement that comes into force on or after 1.10.2007) by [Finance Act 2007 \(c. 11\)](#), s. 47(4), [Sch. 14 para. 12\(2\)](#); [S.I. 2007/2483](#), art. 3

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- F265** Words in s. 263A(1) substituted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 12 para. 9\(3\)](#)
- F266** S. 263A(1A)(1B) inserted (with effect in relation to an arrangement that comes into force on or after 1.10.2007) by [Finance Act 2007 \(c. 11\)](#), s. 47(4), [Sch. 14 para. 12\(3\)](#); S.I. 2007/2483, art. 3
- F267** S. 263A(2) repealed (with effect in relation to an arrangement that comes into force on or after 1.10.2007) by [Finance Act 2007 \(c. 11\)](#), s. 47(4), [Sch. 14 para. 12\(4\)](#), [Sch. 27 Pt. 2\(14\)](#); S.I. 2007/2483, art. 3
- F268** S. 263A(5) omitted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 12 para. 9\(4\)](#)
- F269** S. 263A(5)(6) substituted (with effect in relation to an arrangement that comes into force on or after 1.10.2007) by [Finance Act 2007 \(c. 11\)](#), s. 47(4), [Sch. 14 para. 12\(5\)](#); S.I. 2007/2483, art. 3

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

- C40** 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
- C41** S. 263A applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Sale and Repurchase of Securities \(Modification of Enactments\) Regulations 2007 \(S.I. 2007/2486\)](#), regs. 1(1), 2(2), 4
- C42** 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
- C43** S. 263A(1) modified (1.1.1999) by [The European Single Currency \(Taxes\) Regulations 1998 \(S.I. 1998/3177\)](#), regs. 1, 14-18

### **[<sup>F270</sup>263A] Section 263A: interpretation**

- (1) Subsections (2) to (7) apply for the purposes of section 263A.
- (2) References to buying back securities include references to—
  - (a) buying similar securities, and
  - (b) in the case of a person connected with the person who is the original owner under the repo, buying the securities sold by the original owner or similar securities.
- (3) Subsection (2) applies even if the person buying the securities has not held them before.
- (4) References to repurchase or a repurchaser are to be read accordingly.
- (5) For the purposes of subsection (2) securities are similar if they give their holders—
  - (a) the same rights against the same persons as to capital and distributions, interest and dividends, and
  - (b) the same remedies to enforce those rights.
- (6) Subsection (5) applies even if there is a difference in—
  - (a) the total nominal amounts of the securities,
  - (b) the form in which they are held, or
  - (c) the manner in which they can be transferred.
- (7) Agreements are related if they are entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into).
- (8) In section 263A and this section “securities” means—
  - (a) shares in a company wherever resident,

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- (b) loan stock or other securities of—
  - (i) the government of the United Kingdom,
  - (ii) a local authority in the United Kingdom,
  - (iii) another public authority in the United Kingdom,
  - (iv) a company resident in the United Kingdom or other body resident in the United Kingdom, or
- (c) shares, loan stock, stock or other securities issued by—
  - (i) a government, local authority or other public authority of a territory outside the United Kingdom, or
  - (ii) another body of persons not resident in the United Kingdom.]

#### Textual Amendments

**F270** S. 263AA inserted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 12 para. 10**

#### [<sup>F271</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.
- (2) Subject to the following provisions of this section and [<sup>F272</sup>sections 263C(2) and 263CA(3) and (5)], 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 [<sup>F273</sup>for a consideration equal to their market value at that time];

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- (b) the borrower shall be deemed to have acquired them at that time [<sup>F274</sup>for that consideration]; 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.

[<sup>F275</sup>This subsection does not apply where section 263CA (insolvency of borrower) applies.]

- (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.

[<sup>F276</sup>(7) In this section “securities” has the meaning given by section 263AA.]

#### Textual Amendments

- F271** 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
- F272** Words in s. 263B(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 13 para. 2\(2\)](#) (with [Sch. 13 para. 4\(1\)\(2\)](#))
- F273** Words in s. 263B(4)(a) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 13 para. 2\(3\)\(a\)](#)
- F274** Words in s. 263B(4)(b) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 13 para. 2\(3\)\(b\)](#)
- F275** Words in s. 263B(4) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 13 para. 2\(3\)\(c\)](#) (with [Sch. 13 para. 4\(1\)\(2\)](#))
- F276** S. 263B(7) substituted (1.1.2014) by [Finance Act 2013 \(c. 29\)](#), [Sch. 29 paras. 5, 52](#)

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

- C44** 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.

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- (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

**F271** 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>F277</sup> **263C** **Stock lending: insolvency etc of borrower**

- (1) This section applies where, in the case of any stock lending arrangement—
- (a) the borrower (B) becomes insolvent after the lender (L) has transferred the securities,
  - (b) as a result of the insolvency, the requirement for B to make a transfer back to L will not be complied with as regards some or all of the securities,
  - (c) collateral is used (whether directly or indirectly) to enable L to acquire securities (“replacement securities”) of the same description as the securities which will not be transferred back, and
  - (d) the replacement securities are acquired before the end of the period of 30 days beginning with the day on which B becomes insolvent (“the insolvency date”).
- (2) In accordance with section 263B(2), the transfer of the securities under the arrangement is not to be regarded as a disposal by L for the purposes of this Act (but this is subject to subsection (5)).
- (3) B is to be treated for the purposes of this Act as having acquired the securities which will not be transferred back to L; and that acquisition is to be treated—
- (a) as being made on the insolvency date, and
  - (b) as being for a consideration equal to their market value on that date.
- (4) The acquisition of the replacement securities is to be treated, as regards L, as if it were a transfer back of securities in accordance with the arrangement (so that, in accordance with section 263B(2), that acquisition is not regarded as an acquisition by L for the purposes of this Act).

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- (5) If the number of replacement securities is less than the number of securities which B is treated as having acquired, L is to be treated for the purposes of this Act as having made a disposal, at the insolvency date, of the difference (“the deemed disposal”).
- (6) The consideration for the deemed disposal is—
  - (a) where all the collateral is used to enable L to acquire replacement securities, nil, and
  - (b) where not all the collateral is so used, the difference between—
    - (i) the market value (at the insolvency date) of the number of securities which could have been acquired using the collateral, and
    - (ii) the market value (at that date) of the number of securities which were in fact so acquired.
- (7) But if L at any time receives any amount (whether arising out of B's insolvency or otherwise) in respect of B's liability to L in respect of the securities which are treated under subsection (5) as having been disposed of by L that amount is to be treated as a chargeable gain accruing at that time to L.
- (8) The liability mentioned in subsection (7) is not to be treated as giving rise to a relevant non-lending relationship for the purposes of Part 6 of CTA 2009 (relationships treated as loan relationships etc).
- (9) For the purposes of this section, B becomes insolvent—
  - (a) if a company voluntary arrangement takes effect under Part 1 of the Insolvency Act 1986,
  - (b) if an administration application (within the meaning of Schedule B1 to that Act) is made or a receiver or manager, or an administrative receiver, is appointed,
  - (c) on the commencement of a creditor's voluntary winding up (within the meaning of Part 4 of that Act) or a winding up by the court under Chapter 6 of that Part,
  - (d) if an individual voluntary arrangement takes effect under Part 8 of that Act,
  - (e) on [<sup>F278</sup>bankruptcy application made or] the presentation of a bankruptcy petition (within the meaning of Part 9 of that Act),
  - (f) if a compromise or arrangement takes effect under Part 26 of the Companies Act 2006,
  - (g) if a bank insolvency order takes effect under Part 2 of the Banking Act 2009,
  - (h) if a bank administration order takes effect under Part 3 of that Act, or
  - (i) on the occurrence of any corresponding event which has effect under or as a result of the law of Scotland or Northern Ireland or a country or territory outside the United Kingdom.
- (10) In this section—
  - (a) “collateral” means an amount of money or other property which—
    - (i) is provided under the arrangement (or under arrangements of which the arrangement forms part), and
    - (ii) is payable to or made available for the benefit of L for the purpose of securing the discharge of the requirement to transfer any or all of the securities back to L, and
  - (b) any expression used in this section and in section 263B has the same meaning as in that section.]



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#### Textual Amendments

- F277** S. 263CA inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 13 para. 3** (with [Sch. 13 para. 4\(1\)\(2\)\(3\)](#))
- F278** Words in s. 263CA(9)(e) inserted (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\) and the Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/481\)](#), reg. 1, **Sch. 1 para. 10**

### <sup>F279</sup>263DGains accruing to persons paying manufactured dividends

.....

#### Textual Amendments

- F279** S. 263D omitted (1.1.2014) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 29 paras. 6, 52**

### [<sup>F280</sup>263EStructured finance arrangements

- (1) This section applies if—
- (a) [<sup>F281</sup>section 809BZB or 809BZC of ITA 2007][<sup>F282</sup>or section 759 or 760 of CTA 2010] (disregard of intended effects of arrangement involving disposals of assets) applies in relation to a structured finance arrangement,
  - (b) the borrower or a person connected with the borrower makes a disposal of any security at any time under the arrangement to or for the benefit of the lender or a person connected with the lender, and
  - (c) condition A or B is met.
- (2) Condition A is that the person making the disposal [<sup>F283</sup>(and no-one else) has the right or obligation under the arrangement to acquire the asset disposed of by that disposal at any subsequent time (whether or not the right or obligation is subject to any conditions).]
- (3) Condition B is that—
- (a) the asset disposed of by that disposal [<sup>F284</sup>will subsequently cease] to exist at any time, and
  - (b) [<sup>F285</sup>it is intended that that asset will be held] by the lender, or a person connected with the lender, from the time of the disposal until that time.
- (4) The disposal of the security by the borrower or a person connected with the borrower is to be disregarded for the purposes of this Act.
- [ If, at any time after that disposal, it becomes apparent that—
- <sup>F286</sup>(4A) (a) the person making the disposal will not subsequently acquire under the arrangement the asset disposed of by that disposal, or
- (b) that asset will not be held as mentioned in subsection (3)(b),
- that person is to be treated for the purposes of this Act as disposing of that asset at that time for a consideration equal to its market value at that time.]
- (5) [<sup>F287</sup>Except in a case falling within subsection (4A), any] subsequent acquisition by the person making the disposal of the asset disposed of by that disposal is to be disregarded for the purposes of this Act.



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(6) In this section—

“the borrower”, in relation to a structured finance arrangement, means the person who is the borrower under the arrangement for the purposes of [<sup>F288</sup>the defining section],

[<sup>F289</sup>“the defining section” in relation to a structured finance arrangement—

(a) means section 809BZA of ITA 2007 if it is section 809BZB or 809BZC of ITA 2007 that applies in relation to the arrangement, and

(b) means section 758 of CTA 2010 if it is section 759 or 760 of CTA 2010 that applies in relation to the arrangement.]

“the lender”, in relation to a structured finance arrangement, means the person who is the lender under the arrangement for the purposes of [<sup>F290</sup>the defining section],

“security” means any such asset as is mentioned in [<sup>F291</sup>subsection (2)(b) and (c) of the defining section].

(7) For the purposes of this section—

(a) references to a person connected with the borrower do not include the lender, and

(b) references to a person connected with the lender do not include the borrower.]

#### Textual Amendments

**F280** S. 263E inserted (with effect in accordance with Sch. 6 para. 9(2)(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 6 para. 9\(1\)](#)

**F281** Words in s. 263E(1)(a) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 268\(2\)](#) (with Sch. 9 paras. 1-9, 22)

**F282** Words in s. 263E(1)(a) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 260](#) (with Sch. 2)

**F283** Words in s. 263E(2) substituted (with effect in accordance with Sch. 5 para. 8(6)(7) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 5 para. 8\(2\)](#)

**F284** Words in s. 263E(3)(a) substituted (with effect in accordance with Sch. 5 para. 8(6)(7) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 5 para. 8\(3\)\(a\)](#)

**F285** Words in s. 263E(3)(b) substituted (with effect in accordance with Sch. 5 para. 8(6)(7) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 5 para. 8\(3\)\(b\)](#)

**F286** S. 263E(4A) inserted (with effect in accordance with Sch. 5 para. 8(6)(7) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 5 para. 8\(4\)](#)

**F287** Words in s. 263E(5) substituted (with effect in accordance with Sch. 5 para. 8(6)(7) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 5 para. 8\(5\)](#)

**F288** Words in s. 263E(6) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 268\(3\)](#) (with Sch. 9 paras. 1-9, 22)

**F289** Words in s. 263E(6) inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 268\(4\)](#) (with Sch. 9 paras. 1-9, 22)

**F290** Words in s. 263E(6) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 268\(5\)](#) (with Sch. 9 paras. 1-9, 22)

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**F291** Words in s. 263E(6) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 268\(6\)](#) (with [Sch. 9 paras. 1-9, 22](#))

**[<sup>F292</sup>263F] Power to modify repo provisions: non-standard repo cases**

- (1) The Treasury may by regulations provide for—
  - (a) section 261F (deemed manufactured payments: effect on repurchase price),
  - (b) section 261G (price differences under repos: effect on repurchase price),
  - (c) section 263A (agreements for sale and repurchase of securities), [<sup>F293</sup>or]
  - <sup>F294</sup>(d) .....
  - (e) any of those sections,
 to apply with modifications in relation to non-standard repo cases.
- (2) The power in subsection (1) to make provision for section 263A <sup>F295</sup>... to apply with modifications is exercisable only so far as the section applies to [<sup>F296</sup>any case mentioned in section 263A(1).]
- (3) A case is a non-standard repo case if—
  - (a) there is a repo in respect of securities,
  - (b) under the repo there has been a sale (“the original sale”) of the securities by the original owner to the interim holder, and
  - (c) any of conditions A to E is met in relation to the repo.
- (4) Condition A is that—
  - (a) the obligation to buy back the securities is not performed, or
  - (b) the option to buy them back is not exercised.
- (5) Condition B is that provision is made by or under an agreement for different or additional UK shares, UK securities or overseas securities to be treated as (or as included with) representative securities.
- (6) Condition C is that provision is made by or under an agreement for any UK shares, UK securities or overseas securities to be treated as not included with representative securities.
- (7) Condition D is that provision is made by or under an agreement for the sale price or repurchase price to be decided or varied wholly or partly by reference to post-agreement fluctuations.
- (8) Condition E is that provision is made by or under an agreement for a person to be required, in a case where there are post-agreement fluctuations, to make a payment in the period—
  - (a) beginning immediately after the making of the agreement for the original sale, and
  - (b) ending when the repurchase price becomes due.
- <sup>F297</sup>(9) “Post-agreement fluctuations” are fluctuations in the value of—
  - (a) securities transferred in pursuance of the original sale, or
  - (b) representative securities,
 which occur in the period after the making of the agreement for the original sale.

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- (10) “Representative securities” are securities which, for the purposes of the repurchase, are to represent securities transferred in pursuance of the original sale.]]

#### Textual Amendments

- F292** S. 263F inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 336](#) (with [Sch. 2](#))  
**F293** Word in s. 263F(1)(c) inserted (1.1.2014) by [Finance Act 2013 \(c. 29\)](#), [Sch. 29 paras. 7\(a\)\(i\)](#), 52  
**F294** S. 263F(1)(d) omitted (1.1.2014) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 29 paras. 7\(a\)\(ii\)](#), 52  
**F295** Words in s. 263F(2) omitted (1.1.2014) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 29 paras. 7\(b\)](#), 52  
**F296** Words in s. 263F(2) substituted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 12 para. 11\(2\)](#)  
**F297** S. 263F(9)(10) substituted for s. 263F(9) (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 12 para. 11\(3\)](#)

#### [<sup>F298</sup>263 Power to modify repo provisions: redemption arrangements

- (1) The Treasury may by regulations provide for—
- (a) section 261F (deemed manufactured payments: effect on repurchase price),
  - (b) section 261G (price differences under repos: effect on repurchase price),
  - (c) section 263A (agreements for sale and repurchase of securities),
  - <sup>F299</sup>(d) ..... or
  - (e) any of those sections,
- to apply with modifications in relation to cases involving redemption arrangements.
- (2) The power in subsection (1) to make provision for section 263A <sup>F300</sup>... to apply with modifications is exercisable only so far as the section applies to [<sup>F301</sup>any case mentioned in section 263A(1).]
- (3) A case involves redemption arrangements if—
- (a) arrangements, corresponding to those made in cases where there is a repo, are made by an agreement, or one or more related agreements, in relation to securities that are to be redeemed in the period after their sale,
  - (b) the securities are UK shares, UK securities or overseas securities, and
  - (c) the arrangements are such that the seller or a person connected with the seller (instead of being required to repurchase the securities or acquiring an option to do so) is granted rights in respect of the benefits that will result from the redemption.

<sup>F302</sup>(4) ..... ]

#### Textual Amendments

- F298** S. 263G inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 337](#) (with [Sch. 2](#))  
**F299** S. 263G(1)(d) omitted (1.1.2014) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 29 paras. 8\(a\)](#), 52  
**F300** Words in s. 263G(2) omitted (1.1.2014) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 29 paras. 8\(b\)](#), 52  
**F301** Words in s. 263G(2) substituted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 12 para. 12\(a\)](#)  
**F302** S. 263G(4) omitted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 12 para. 12\(b\)](#)

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### <sup>F303</sup> **Sections 263F and 263G: supplementary provisions**

- (1) Regulations under section 263F or 263G may make different provision for different cases.
- (2) Regulations under either section may contain incidental, supplemental, consequential and transitional provision and savings.
- (3) The incidental, supplemental and consequential provision may include—
  - (a) in the case of regulations about section 261G, modifications of section 261F, and
  - (b) in the case of regulations about section 263A <sup>F304</sup> ..., modifications of the operation of this Act in relation to cases where, by virtue of the regulations, any acquisition or disposal is excluded from those which are to be ignored for the purposes of capital gains tax.
- (4) In this section and sections 263F and 263G “modifications” includes exceptions and omissions.
- (5) Accordingly, a power in sections 263F and 263G to provide for a provision to apply with modifications in relation to a particular case includes power to provide for the provision not to apply in relation to that case.]

#### **Textual Amendments**

**F303** S. 263H inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 338](#) (with [Sch. 2](#))

**F304** Words in s. 263H(3)(b) omitted (1.1.2014) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 29 paras. 9, 52](#)

### <sup>F305</sup> **Powers about manufactured overseas dividends**

- (1) The Treasury may by regulations make provision as mentioned in subsection (2) about prescribed cases where a person—
  - <sup>F306</sup>(a) pays or receives an amount (a “manufactured overseas dividend”) which is representative of an overseas dividend on overseas securities where the payment or receipt is required to be made under an arrangement for the transfer of the securities, or
  - (b) is treated as doing so for any purposes of the Tax Acts.]
- (2) The regulations may provide for adjusting a relevant amount by reference to a provision which has effect under the law of a territory outside the United Kingdom.
- (3) A “relevant amount” is an amount which is treated for prescribed capital gains tax purposes as the amount paid or payable to a person in respect of a relevant transaction.
- (4) A “relevant transaction” is a sale, repurchase or other transfer of the overseas securities to which the manufactured overseas dividend relates.
- (5) In this section “prescribed” means prescribed in regulations under this section.
- <sup>F307</sup>(6) In this section—
  - (a) “overseas securities” means shares, stock or other securities issued by—
    - (i) a government, local authority or other public authority of a territory outside the United Kingdom, or
    - (ii) another body of persons not resident in the United Kingdom,

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- (b) “overseas securities” includes shares in a company which is not resident in the United Kingdom,
- (c) “overseas dividend” means any interest, dividend or other annual payment payable in respect of overseas securities, and
- (d) “securities” includes loan stock or any similar security.]]

#### Textual Amendments

**F305** S. 263I inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 339](#) (with [Sch. 2](#))

**F306** S. 263I(1)(a)(b) substituted (1.1.2014) by [Finance Act 2013 \(c. 29\)](#), [Sch. 29 paras. 10\(2\)](#), 52

**F307** S. 263I(6) substituted (1.1.2014) by [Finance Act 2013 \(c. 29\)](#), [Sch. 29 paras. 10\(3\)](#), 52

### 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>M10</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.
- (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

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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>M11</sup>Inheritance Tax Act 1984 (gifts to political parties).

#### **Marginal Citations**

**M10** 1986 c. 56.

**M11** 1984 c. 51.

## **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.



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- (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 [<sup>F308</sup>this Act], to be situated outside the United Kingdom.

#### Textual Amendments

**F308** 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>M12</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),
  - (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.

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### Marginal Citations

**M12** 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.

### [<sup>F309</sup>268A] Victims of National-Socialist persecution

- (1) A gain accruing on a disposal is not a chargeable gain if it accrues on—
  - (a) a disposal of the right to receive the whole or any part of a qualifying payment in respect of National-Socialist persecution, or
  - (b) a disposal of an interest in any such right.
- (2) A payment is a qualifying payment in respect of National-Socialist persecution if it is payable as mentioned in paragraphs (a) to (c) of section 756A(1) of ITTOIA 2005 (income tax exemption for payments to or in respect of victims of National-Socialist persecution).
- (3) In this section “interest”, in relation to any right, means an interest as a co-owner of the right.
- (4) It does not matter—
  - (a) whether the right is owned jointly or in common, or
  - (b) whether or not the interests of the co-owners are equal.]

### Textual Amendments

**F309** S. 268A inserted (with effect in accordance with s. 64(8) of the amending Act) by [Finance Act 2006](#) (c. 25), [s. 64\(4\)](#) (with [s. 64\(10\)-\(12\)](#))

### [<sup>F310</sup>268B] Compensation for deprivation of foreign assets

- (1) A gain is not a chargeable gain if—
  - (a) it accrues to a person on receipt of a capital sum paid by way of compensation for the deprivation of a foreign asset,
  - (b) no legal redress was available when the deprivation occurred, and
  - (c) the sum is paid as the result of a relevant compensation award.
- (2) A relevant compensation award is an award or distribution made—
  - (a) under—
    - (i) an Order in Council made under the Foreign Compensation Act 1950, or
    - (ii) arrangements established by the government of a territory outside the United Kingdom that are equivalent in effect to such an Order,
  - (b) as a result of a recommendation of—
    - (i) the Spoliation Advisory Panel, or



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- (ii) a body outside the United Kingdom whose purposes and functions are equivalent to those of the Panel, or
  - (c) in settlement of a legal claim to the effect that the deprivation was unlawful or in accordance with an order to that effect made by a court, tribunal or other competent authority with jurisdiction to decide such a claim.
- (3) Reference in this section to the payment of a capital sum by way of compensation for the deprivation of a foreign asset includes—
  - (a) payment as a result of the abandonment or extinguishment of rights in respect of the deprivation;
  - (b) return of the asset itself.
- (4) In the case of a gain accruing to a person other than the original owner—
  - (a) subsection (1) does not apply if consideration had been given at any time (whether by that person or someone else) for the right to receive the compensation, but
  - (b) consideration given on an acquisition falling within section 58(1) or 171(1) is to be ignored for these purposes.
- (5) If the capital sum is paid (or the foreign asset returned) to a person to whom an allowable loss has accrued as a result of—
  - (a) the deprivation of the foreign asset, or
  - (b) the abandonment or extinguishment of rights in respect of the deprivation, subsection (1) applies only to so much of any gain as exceeds that loss.
- (6) For a person to obtain relief under this section, the person must make a claim.
- (7) If the capital sum is paid by means of the transfer of an asset (or the foreign asset is returned), that asset is to be treated for the purposes of computing a gain or a loss on its subsequent disposal as if it were acquired for a consideration equal to its market value at the time of the transfer.
- (8) In this section—
  - “capital sum” means money or money’s worth;
  - “deprivation”, in relation to a foreign asset, includes deprivation resulting from—
    - (a) the seizure, confiscation, forfeiture, destruction or expropriation of the asset,
    - (b) the disposal of the asset by a sale under duress for less than market value;
  - “foreign asset” means an asset which was situated outside the United Kingdom at the time of the deprivation;
  - “legal redress”, in relation to the deprivation of a foreign asset, means a right to recover the asset or to receive compensation for the deprivation;
  - “original owner” means the person who owned the foreign asset at the time of the deprivation;
  - “Spoliation Advisory Panel” includes any successor to that Panel.
- (9) This section does not apply in relation to a gain to which section 268A applies.]

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### Textual Amendments

**F310** S. 268B inserted (with effect in accordance with art. 9(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2010 \(S.I. 2010/157\)](#), arts. 1, **9(1)**

## 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>M13</sup>Chevening Estate Act 1959.

### Marginal Citations

**M13** 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>F311</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>F312</sup>or in the registers kept by the Registrar of Government Stock];
  - (b) any gain accruing to a person from his acquisition and disposal of assets held by him as part of [<sup>F313</sup>the Fund mentioned in section 613(4) of the Taxes Act (House of Commons Members' Fund);]
  - [<sup>F314</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;]
  - <sup>F315</sup>(d) .....
  - (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

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section 9 of the <sup>M14</sup>Superannuation and Trust Funds (Validation) Act 1927 (trust funds for the reduction of the National Debt);

<sup>F316</sup>(ea) any gain accruing on the disposal by the trustees of an asbestos compensation settlement of any property comprised in the settlement;]

(f) any gain accruing to a consular officer or employee, within the meaning of <sup>F317</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;

<sup>F318</sup>(g) .....

<sup>F319</sup>(h) .....

<sup>F320</sup>(j) .....

<sup>F321</sup> .....

<sup>F322</sup>(1ZA) In subsection (1)(ea) above “asbestos compensation settlement” means a settlement—

- (a) the sole or main purpose of which is making compensation payments to or in respect of individuals who have, or had before their death, an asbestos-related condition, and
- (b) which is made before 24 March 2010 in pursuance of an arrangement within subsection (1ZB) below.

(1ZB) An arrangement is within this subsection if it is—

- (a) a voluntary arrangement that has taken effect under Part 1 of the Insolvency Act 1986 or Part 2 of the Insolvency (Northern Ireland) Order 1989,
- (b) a compromise or arrangement that has taken effect under section 425 of the Companies Act 1985, Article 418 of the Companies (Northern Ireland) Order 1986 or Part 26 of the Companies Act 2006, or
- (c) an arrangement or compromise of a kind corresponding to any of those mentioned in paragraph (a) or (b) above that has taken effect under, or as a result of, the law of a country or territory outside the United Kingdom.]

<sup>F323</sup>(1A) A gain accruing to a person on a disposal of investments held for the purposes of a registered pension scheme <sup>F324</sup>[or an overseas pension scheme] is not a chargeable gain.]

<sup>F325</sup>(1B) But subsection (1A) does not prevent such a gain from being treated as a chargeable gain for the purposes of sections 185F to 185I of the Finance Act 2004 (scheme chargeable payments: gains from taxable property).]

<sup>F326</sup>(2) .....

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

<sup>F327</sup>In this subsection—

“health service body” has the meaning given by <sup>F328</sup>section 986 of CTA 2010], and

“local authority association” has the meaning given by section 1000 of ITA 2007.]

(4) Any <sup>F329</sup>[interest] to which <sup>F330</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>F329</sup>interest] payable after the transfer under a [<sup>F331</sup>savings arrangement] which immediately before the transfer was a [<sup>F332</sup>certified SAYE savings arrangement] notwithstanding that it ceased to be such a [<sup>F333</sup>arrangement] by reason of the transfer.

[<sup>F334</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>F335</sup>Natural History Museum]; and
  - (b) an [<sup>F336</sup>association (in the sense that word has in section 469(1)(a) of CTA 2010) which meets conditions A and B in that section (conditions for qualifying as a scientific research association)].
- (7) The Historic Buildings and Monuments Commission for England [<sup>F337</sup>and], the Trustees of the National Heritage [<sup>F338</sup>Memorial Fund]<sup>F339</sup> ... <sup>F340</sup> ... <sup>F341</sup> ... shall be exempt from tax in respect of chargeable gains <sup>F342</sup>...
- [<sup>F343</sup>(7A) Chargeable gains are exempt from tax if they accrue to a bank, or issue department of a bank, to which this subsection applies for the time being.
- (7B) Her Majesty may by Order in Council direct that subsection (7A) applies to a bank or its issue department if it appears to Her Majesty that the bank—
  - (a) is not resident in the United Kingdom, and
  - (b) is entrusted by the government of a territory outside the United Kingdom with the custody of the territory's principal foreign exchange reserves.
- (7C) No recommendation may be made to Her Majesty in Council to make an order under subsection (7B) unless a draft of the order has been laid before and approved by a resolution of the House of Commons.]
- (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>M15</sup>Indian Independence Act 1947.
- <sup>F344</sup>(9) .....
- (10) In [<sup>F345</sup>subsection (1A)] above [<sup>F346</sup>—
 

“investments” includes futures contracts and options contracts;

“overseas pension scheme” has the same meaning as in Part 4 of the Finance Act 2004 (see section 150(7) of that Act).]

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(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>F347</sup>(12) [<sup>F348</sup>Subsections (1)(b) and (c) and (1A)] 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

- F311** 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)
- F312** 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)
- F313** Words in s. 271(1)(b) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 187(2)**, 284(1) (with [Sch. 36](#))
- F314** 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](#))
- F315** S. 271(1)(d) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 187(3)(a)**, 284(1), **Sch. 42 Pt. 3** (with [Sch. 36](#))
- F316** S. 271(1)(ea) inserted (retrospective to 6.4.2006) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 14 para. 2(2)(4)**
- F317** 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](#))
- F318** S. 271(1)(g) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 187(3)(b)**, 284(1), **Sch. 42 Pt. 3** (with [Sch. 36](#))
- F319** S. 271(1)(h) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 187(3)(c)**, 284(1), **Sch. 42 Pt. 3** (with [Sch. 36](#))
- F320** S. 271(1)(j) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 187(3)(d)**, 284(1), **Sch. 42 Pt. 3** (with [Sch. 36](#))
- F321** Words in s. 271(1) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 187(3)**, 284(1), **Sch. 42 Pt. 3** (with [Sch. 36](#))
- F322** S. 271(1ZA)(1ZB) inserted (retrospective to 6.4.2006) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 14 para. 2(3)(4)**
- F323** S. 271(1A) inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 187(4)**, 284(1) (with [Sch. 36](#))
- F324** Words in s. 271(1A) inserted (with effect in accordance with [Sch. 25 para. 20](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 25 para. 14(a)**
- F325** S. 271(1B) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), **Sch. 21 para. 1**
- F326** S. 271(2) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 187(5)**, 284(1), **Sch. 42 Pt. 3** (with [Sch. 36](#))
- F327** Words in s. 271(3) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 340(2)** (with [Sch. 2](#))
- F328** Words in s. 271(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 261(2)** (with [Sch. 2](#))
- F329** 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](#))

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- F330** 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)
- F331** 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)
- F332** 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)
- F333** 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)
- F334** 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)
- F335** Words in s. 271(6)(a) substituted (1.9.1992) by 1992 c. 44, s. 11(2), [Sch. 8 Pt. 1 para. 1\(1\)\(2\)\(9\)](#); S.I. 1992/1874, [art.2](#)
- F336** Words in s. 271(6)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 261\(3\)](#) (with Sch. 2)
- F337** Word in s. 271(7) inserted (1.4.2012) by [The Public Bodies \(Abolition of the National Endowment for Science, Technology and the Arts\) Order 2012 \(S.I. 2012/964\), arts. 1\(2\), 3\(1\), Sch.](#)
- F338** 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))
- F339** Words in s. 271(7) omitted (1.4.2012) by virtue of [The Public Bodies \(Abolition of the National Endowment for Science, Technology and the Arts\) Order 2012 \(S.I. 2012/964\), arts. 1\(2\), 3\(1\), Sch.](#)
- F340** 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\(3\)\(b\)](#), Sch. 11 Pt. 2(12) (with s. 46(7))
- F341** 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))
- F342** 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)
- F343** S. 271(7A)-(7C) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 340\(3\)](#) (with Sch. 2)
- F344** 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
- F345** Words in s. 271(10) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\), ss. 187\(6\)\(a\), 284\(1\)](#) (with Sch. 36)
- F346** Words in s. 271(10) substituted (with effect in accordance with Sch. 25 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 25 para. 14\(b\)](#)
- F347** 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)
- F348** Words in s. 271(12) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\), ss. 187\(7\), 284\(1\)](#) (with Sch. 36)

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

- C45** 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
- C46** S. 271 modified by [Greater London Authority Act 1999 \(c. 29\), s. 34A\(3\)](#) (as inserted (15.1.2012) by [Localism Act 2011 \(c. 20\), s. 224\(2\)](#); S.I. 2012/57, [art. 4\(1\)\(cc\)](#))

#### **Marginal Citations**

- M14** 1927 c. 41.

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M15 1947 c. 30.

*[<sup>F349</sup>Visiting forces and official agents etc*

**Textual Amendments**

**F349** Ss. 271ZA, 271ZB and cross-heading inserted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by Finance Act 2019 (c. 1), Sch. 1 para. 9

**271ZA Visiting forces and staff of designated allied headquarters**

- (1) This section applies for the purposes of capital gains tax if section 833 of ITA 2007 (visiting forces and staff of designated allied headquarters) applies to an individual throughout a period.
- (2) The period is not a period of residence in the United Kingdom.
- (3) The period does not create a change of the individual's residence or domicile.

**271ZB Official agents of Commonwealth countries or Republic of Ireland etc**

- (1) An individual who is entitled to immunity from income tax as a result of section 841 of ITA 2007 (official agents of Commonwealth countries or Republic of Ireland etc) is entitled to the same immunity from capital gains tax as that to which a member of the staff of a mission is entitled under the Diplomatic Privileges Act 1964.
- (2) The reference here to a member of the staff of a mission is to be read in accordance with the Diplomatic Privileges Act 1964.]

**Status:**

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**Changes to legislation:**

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