



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART VIII

#### SUPPLEMENTAL

#### 272 Valuation: general.

- (1) In this Act “market value” in relation to any assets means the price which those assets might reasonably be expected to fetch on a sale in the open market.
- (2) In estimating the market value of any assets no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole of the assets is to be placed on the market at one and the same time.
- (3) Subject to subsection (4) below, the market value of shares or securities [<sup>F1</sup>quoted] in The Stock Exchange Daily Official List shall, except where in consequence of special circumstances prices quoted in that List are by themselves not a proper measure of market value, be as follows—
  - (a) the lower of the 2 prices shown in the quotations for the shares or securities in The Stock Exchange Daily Official List on the relevant date plus one-quarter of the difference between those 2 figures, or [<sup>F2</sup>where a single price is shown in the quotations for the shares or securities in The Stock Exchange Daily Official List on the relevant date, that price, or]
  - (b) halfway between the highest and lowest prices at which bargains, other than bargains done at special prices, were recorded in the shares or securities for the relevant date,  
choosing the amount under paragraph (a), if less than that under paragraph (b), or if no such bargains were recorded for the relevant date, and choosing the amount under paragraph (b) if less than that under paragraph (a).
- (4) Subsection (3) shall not apply to shares or securities for which The Stock Exchange provides a more active market elsewhere than on the London trading floor; and, if the London trading floor is closed on the relevant date, the market value shall be

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ascertained by reference to the latest previous date or earliest subsequent date on which it is open, whichever affords the lower market value.

- (5) In this Act “market value” in relation to any rights of unit holders in any unit trust scheme the buying and selling prices of which are published regularly by the managers of the scheme shall mean an amount equal to the buying price (that is the lower price) so published on the relevant date, or if none were published on that date, on the latest date before.
- [<sup>F3</sup>(5AA)] In this Act “market value” in relation to shares of a given class in an open-ended investment company the prices of which are published regularly by the authorised corporate director of that company (whether or not those shares are also quoted in The Stock Exchange Daily Official List) shall mean an amount equal to the price so published on the relevant date, or if no price was published on that date, on the latest date before that date.
- (5AB) In subsection (5AA) “authorised corporate director” has the meaning given by subsection (10) of section 468 of the Taxes Act, read with subsections (16) and (17) of that section, as those subsections are added by regulation 10(4) of the Open-ended Investment Companies (Tax) Regulations 1997; and accordingly the reference in subsection (16) of that section to “the Tax Acts” shall be construed as if it included a reference to this Act.]
- (6) The provisions of this section, with sections 273 and 274, have effect subject to Part I of Schedule 11.

#### Textual Amendments

- F1** Word in s. 272(3) substituted (with effect in accordance with Sch. 38 para. 12(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 38 para. 12\(1\)](#)
- F2** Words in s. 272(3)(a) added (28.4.1997) by [The Open-ended Investment Companies \(Tax\) Regulations 1997 \(S.I. 1997/1154\)](#), regs. 1(1), [22\(a\)](#)
- F3** S. 272(5AA)(5AB) inserted (28.4.1997) by [The Open-ended Investment Companies \(Tax\) Regulations 1997 \(S.I. 1997/1154\)](#), regs. 1(1), [22\(b\)](#)

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

- C1** S. 272 applied (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 18\(5\)](#)
- C2** S. 272 applied by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [ss. 591C-591D](#) (as inserted (with effect in accordance with [s. 61\(3\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), s. 61(1))
- C3** S. 272 applied (E.W.S.) (8.11.1995) by [Gas Act 1995 \(c. 45\)](#), [ss. 17\(1\), 18\(2\)](#), [Sch. 5 para. 10\(2\)](#)
- C4** S. 272 applied by [Building Societies Act 1986 \(c. 53\)](#), s. 102C(3) (as inserted (with effect in accordance with s. 2(2) of the amending Act) by [Building Societies \(Distributions\) Act 1997 \(c. 41\)](#), s. 1(1))
- C5** S. 272(2)-(4) applied (27.7.1993) by [1993 c. 37](#), s. 12, [Sch. 2 Pt. I para. 24\(5\)](#)

## 273 Unquoted shares and securities.

- (1) The provisions of subsection (3) below shall have effect in any case where, in relation to an asset to which this section applies, there falls to be determined by virtue of section 272(1) the price which the asset might reasonably be expected to fetch on a sale in the open market.

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- (2) The assets to which this section applies are shares and securities which are not quoted on a recognised stock exchange at the time as at which their market value for the purposes of tax on chargeable gains falls to be determined.
- (3) For the purposes of a determination falling within subsection (1) above, it shall be assumed that, in the open market which is postulated for the purposes of that determination, there is available to any prospective purchaser of the asset in question all the information which a prudent prospective purchaser of the asset might reasonably require if he were proposing to purchase it from a willing vendor by private treaty and at arm's length.

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

C6 S. 273(3) applied (27.7.1993) by 1993 c. 37, s. 12, Sch. 2 Pt. I para. 24(6)

**274 Value determined for inheritance tax.**

Where on the death of any person inheritance tax is chargeable on the value of his estate immediately before his death and the value of an asset forming part of that estate has been ascertained (whether in any proceedings or otherwise) for the purposes of that tax, the value so ascertained shall be taken for the purposes of this Act to be the market value of that asset at the date of the death.

**275 Location of assets.**

For the purposes of this Act—

- (a) the situation of rights or interests (otherwise than by way of security) in or over immovable property is that of the immovable property,
- (b) subject to the following provisions of this subsection, the situation of rights or interests (otherwise than by way of security) in or over tangible movable property is that of the tangible movable property,
- (c) subject to the following provisions of this subsection, a debt, secured or unsecured, is situated in the United Kingdom if and only if the creditor is resident in the United Kingdom,
- (d) shares or securities issued by any municipal or governmental authority, or by any body created by such an authority, are situated in the country of that authority,
- (e) subject to paragraph (d) above, registered shares or securities are situated where they are registered and, if registered in more than one register, where the principal register is situated,
- (f) a ship or aircraft is situated in the United Kingdom if and only if the owner is then resident in the United Kingdom, and an interest or right in or over a ship or aircraft is situated in the United Kingdom if and only if the person entitled to the interest or right is resident in the United Kingdom,
- (g) the situation of good-will as a trade, business or professional asset is at the place where the trade, business or profession is carried on,
- (h) patents, trade marks, <sup>F4</sup>... and registered designs are situated where they are registered, and if registered in more than one register, where each register is situated, and rights or licences to use a patent, trade mark, <sup>F4</sup>... or registered

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design are situated in the United Kingdom if they or any right derived from them are exercisable in the United Kingdom,

- (j) copyright, design right and franchises, and rights or licences to use any copyright work or design in which design rights subsists, are situated in the United Kingdom if they or any right derived from them are exercisable in the United Kingdom,
- (k) a judgment debt is situated where the judgment is recorded,
- (l) a debt which—
  - (i) is owed by a bank, and
  - (ii) is not in sterling, and
  - (iii) is represented by a sum standing to the credit of an account in the bank of an individual who is not domiciled in the United Kingdom,
 is situated in the United Kingdom if and only if that individual is resident in the United Kingdom and the branch or other place of business of the bank at which the account is maintained is itself situated in the United Kingdom.

#### Textual Amendments

- F4** Words in s. 275(h) repealed (31.10.1994) by [Trade Marks Act 1994 \(c. 26\), s. 109\(1\), Sch. 5; S.I. 1994/2550, art. 2](#)

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

- C7** S. 275 applied (27.7.1993 with effect in relation to accounting periods beginning after 31.12.1992 as mentioned in Sch. 19AC) by [1988 c. 1, Sch. 19AC](#) (as inserted by [1993 c. 34, s. 97, Sch. 9 para.1](#))
- C8** S. 275(h) modified (31.10.1994) by [Trade Marks Act 1994 \(c. 26\), s. 109\(1\), Sch. 4 para. 1\(1\)\(2\); S.I. 1994/2550, art. 2](#)

## 276 The territorial sea and the continental shelf.

- (1) The territorial sea of the United Kingdom shall for all purposes of the taxation of chargeable gains (including the following provisions of this section) be deemed to be part of the United Kingdom.
- (2) In this section—
  - (a) “exploration or exploitation activities” means activities carried on in connection with the exploration or exploitation of so much of the seabed and subsoil and their natural resources as is situated in the United Kingdom or a designated area; and
  - (b) “exploration or exploitation rights” means rights to assets to be produced by exploration or exploitation activities or to interests in or to the benefit of such assets; and
  - (c) references to the disposal of exploration or exploitation rights include references to the disposal of shares deriving their value or the greater part of their value directly or indirectly from such rights, other than shares <sup>[F5]</sup>listed on a recognised stock exchange; and
  - (d) “shares” includes stock and any security as defined in section 254(1) of the Taxes Act; and
  - (e) “designated area” means an area designated by Order in Council under section 1(7) of the <sup>M1</sup>Continental Shelf Act 1964.

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- (3) Any gains accruing on the disposal of exploration or exploitation rights shall be treated for the purposes of this Act as gains accruing on the disposal of assets situated in the United Kingdom.
- (4) Gains accruing on the disposal of—
- (a) exploration or exploitation assets which are situated in a designated area, or
  - (b) unquoted shares deriving their value or the greater part of their value directly or indirectly from exploration or exploitation assets situated in the United Kingdom or a designated area or from such assets and exploration or exploitation rights taken together,
- shall be treated for the purposes of this Act as gains accruing on the disposal of assets situated in the United Kingdom.
- (5) For the purposes of this section, an asset disposed of is an exploration or exploitation asset if either—
- (a) it is not a mobile asset and it is being or has at some time been used in connection with exploration or exploitation activities carried on in the United Kingdom or a designated area; or
  - (b) it is a mobile asset which has at some time been used in connection with exploration or exploitation activities so carried on and is dedicated to an oil field in which the person making the disposal, or a person connected with him, is or has been a participator;
- and expressions used in paragraphs (a) and (b) above have the same meaning as if those paragraphs were included in Part I of the <sup>M2</sup>Oil Taxation Act 1975.
- (6) In subsection (4)(b) above “unquoted shares” means shares other than those which are [<sup>F6</sup>listed] on a recognised stock exchange; and references in subsections (7) and (8) below to exploration or exploitation assets include references to unquoted shares falling within subsection (4)(b).
- (7) Gains accruing to a person not resident in the United Kingdom on the disposal of exploration or exploitation rights or of exploration or exploitation assets shall, for the purposes of capital gains tax or corporation tax on chargeable gains, be treated as gains accruing on the disposal of assets used for the purposes of a trade carried on by that person in the United Kingdom through a branch or agency.
- <sup>F7</sup>(8) The provisions specified in subsection (9) below shall apply in relation to a disposal of exploration or exploitation rights or exploration or exploitation assets if (and only if) the disposal is—
- (a) by a company resident in a territory outside the United Kingdom to a company resident in the same territory,
  - (b) by a company resident in the United Kingdom to another company which is so resident, or
  - (c) by a company which is not resident in the United Kingdom to another company which is resident there.
- (9) Those provisions are—
- (a) section 41(8),
  - (b) section 171 (except subsections (1)(b) and (1A)),
  - (c) section 173 (with the omission of the words “to which this section applies” in subsections (1)(a) and (2)(a) and “such” in subsections (1)(c) and (2)(c) and with the omission of subsection (3)),

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- (d) section 174(4) (with the substitution of “at a time when both were members of the group” for “in a transfer to which section 171(1) applied”),
  - (e) section 179 (except subsections (1)(b) and (1A)), and
  - (f) section 181.
- (10) The provisions specified in subsection (9) above shall apply in accordance with subsection (8) above with the following modifications—
- (a) for the purposes of paragraph (a) of subsection (9) above, section 41(8) applies as if section 170 applied, for the purposes of section 171, with the omission of subsection (9), and
  - (b) for the purposes of paragraphs (b) to (f) of subsection (9) above, the provisions specified in those paragraphs apply as if in section 170 subsection (9) were omitted.]

#### Textual Amendments

- F5** Word in s. 276(2)(c) substituted (with effect in accordance with Sch. 38 para. 10(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 38 para. 10\(2\)\(d\)](#)
- F6** Word in s. 276(6) substituted (with effect in accordance with Sch. 38 para. 10(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 38 para. 10\(2\)\(d\)](#)
- F7** S. 276(8)-(10) substituted for s. 276(8) (with effect in accordance with Sch. 29 para. 35(2) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 35\(1\)](#) (with [Sch. 29 para. 46\(5\)](#))

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

- C9** S. 276(7) modified (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 153\(2\)\(b\)](#)

#### Marginal Citations

- M1** 1964 c. 29.
- M2** 1975 c. 22.

## 277 Double taxation relief.

- (1) For the purpose of giving relief from double taxation in relation to capital gains tax and tax on chargeable gains charged under the law of any [<sup>F8</sup>territory] outside the United Kingdom, in Chapters I and II of Parts XVIII of the Taxes Act, as they apply for the purposes of income tax, for references to income there shall be substituted references to capital gains and for references to income tax there shall be substituted references to capital gains tax meaning, as the context may require, tax charged under the law of the United Kingdom or tax charged under the law of a [<sup>F8</sup>territory] outside the United Kingdom.
- (2) Any arrangements set out in an order made under section 347 of the <sup>M3</sup>Income Tax Act 1952 before 5th August 1965 (the date of the passing of the <sup>M4</sup>Finance Act 1965) shall so far as they provide (in whatever terms) for relief from tax chargeable in the United Kingdom on capital gains have effect in relation to capital gains tax.
- (3) So far as by virtue of this section capital gains tax charged under the law of a [<sup>F9</sup>territory] outside the United Kingdom may be brought into account under the said Chapters I and II as applied by this section, that tax, whether relief is given by virtue of this section in respect of it or not, shall not be taken into account for the purposes of those Chapters as they apply apart from this section.

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- (4) Section 816 of the Taxes Act (disclosure of information for purposes of double taxation) shall apply in relation to capital gains tax as it applies in relation to income tax.

#### Textual Amendments

- F8** Word in s. 277(1) substituted (with application in accordance with s. 88(3) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 88\(2\)\(f\)](#)
- F9** Word in s. 277(3) substituted (with application in accordance with s. 88(3) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 88\(2\)\(f\)](#)

#### Marginal Citations

- M3** 1952 c. 10.
- M4** 1965 c. 25.

### 278 Allowance for foreign tax.

[<sup>F10</sup>(1)] Subject to section 277, the tax chargeable under the law of any [<sup>F11</sup>territory] outside the United Kingdom on the disposal of an asset which is borne by the person making the disposal shall be allowable as a deduction in the computation of the gain.

[<sup>F12</sup>(2)] Where the amount of any deduction allowed under subsection (1) above is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either—

- (a) in the United Kingdom, or
- (b) under the law of any other territory,

nothing in this Act, the Management Act or the Taxes Act limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, whether in the United Kingdom or elsewhere, as are material in determining whether any and if so what deduction falls to be made under subsection (1) above.

(3) Where—

- (a) a deduction has been allowed under subsection (1) above in the case of the person making the disposal, and
- (b) the amount of that deduction is subsequently rendered excessive by reason of an adjustment of the amount of any tax payable under the law of a territory outside the United Kingdom,

that person shall give notice in writing to an officer of the Board that an adjustment has been made that has rendered the amount of the deduction excessive.

(4) A notice under subsection (3) above must be given within one year from the time of the making of the adjustment.

(5) A person who fails to comply with the requirements imposed on him by subsections (3) and (4) above in relation to any adjustment shall be liable to a penalty of an amount not exceeding the amount of the difference specified in subsection (6) below.

(6) The difference is that between—



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- (a) the amount of tax payable by the person in question for the relevant chargeable period, after giving effect to the deduction that ought to be made under subsection (1) above; and
  - (b) the amount that would have been the tax so payable after giving effect instead to a deduction under that subsection of the amount rendered excessive as mentioned in subsection (3)(b) above.
- (7) For the purposes of subsection (6) above “the relevant chargeable period” means the chargeable period as respects which the deduction was treated as made.]

#### Textual Amendments

- F10** Word in s. 278 inserted (with effect in accordance with Sch. 30 para. 30(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 30 para. 30\(2\)](#)
- F11** Word in s. 278(1) substituted (with application in accordance with s. 88(3) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [s. 88\(2\)\(f\)](#)
- F12** S. 278(2)-(7) added (with effect in accordance with Sch. 30 para. 30(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 30 para. 30\(3\)](#)

#### 279 Foreign assets: delayed remittances.

- (1) Subsection (2) below applies where—
- (a) chargeable gains accrue from the disposal of assets situated outside the United Kingdom, and
  - [<sup>F13</sup>(b) the person charged or chargeable makes a claim, and
  - (c) the conditions set out in subsection (3) below are, so far as applicable, satisfied as respects those gains (“the qualifying gains”);]
- and subsection (2)(b) also applies where a claim has been made under section 13 of the 1979 Act.
- (2) For the purposes of capital gains tax—
- (a) the amount of the qualifying gains shall be deducted [<sup>F14</sup>(before the application of any taper relief)] from the amounts on which the claimant is assessed to capital gains tax for the year in which the qualifying gains accrued to the claimant, but
  - (b) the amount so deducted shall be assessed to capital gains tax on the claimant (or his personal representatives) as if it were an amount of chargeable gains accruing in the year of assessment in which the conditions set out in subsection (3) below cease to be satisfied.
- (3) The conditions are—
- (a) that the claimant was unable to transfer the qualifying gains to the United Kingdom, and
  - (b) that that inability was due to the laws of the territory where the assets were situated at the time of the disposal, or to the executive action of its government, or to the impossibility of obtaining foreign currency in that territory, and
  - (c) that the inability was not due to any want of reasonable endeavours on the part of the claimant.
- (4) Where under an agreement entered into under arrangements made by the Secretary of State in pursuance of section 1 of the <sup>M5</sup>Overseas Investment and Export Guarantees



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Act 1972 or section 11 of the <sup>M6</sup>Export Guarantees and Overseas Investment Act 1978 any payment is made by the Exports Credits Guarantee Department in respect of any gains which cannot be transferred to the United Kingdom, then, to the extent of the payment, the gains shall be treated as gains with respect to which the conditions mentioned in subsection (3) above are not satisfied (and accordingly cannot cease to be satisfied).

- [<sup>F15</sup>(5) No claim under this section in respect of a chargeable gain shall be made—
- (a) in the case of a claim for the purposes of capital gains tax, at any time after the fifth anniversary of the 31st January next following the year of assessment in which the gain accrues; or
  - (b) in the case of a claim for the purposes of corporation tax, more than 6 years after the end of the accounting period in which the gain accrues.]
- (6) The personal representatives of a deceased person may make any claim which he might have made under this section if he had not died.
- (7) Where—
- (a) a claim under this section is made (or has been made under section 13 of the 1979 Act) by a man in respect of chargeable gains accruing to his wife before 6th April 1990, and
  - (b) by virtue of this section the amount of the gains falls to be assessed to capital gains tax as if it were an amount of gains accruing in the year 1992-93 or a subsequent year of assessment,
- it shall be assessed not on the claimant (or his personal representatives) but on the person to whom the gains accrued (or her personal representatives).
- (8) In relation to disposals before 19th March 1991 subsection (3)(b) above shall have effect with the substitution of the words “income arose” for the words “assets were situated at the time of the disposal”.

#### Textual Amendments

- F13** S. 279(1)(b)(c) substituted for s. 279(1)(b) (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 64](#)
- F14** Words in s. 279(2)(a) inserted (with effect in accordance with s. 121(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 21 para. 9](#)
- F15** S. 279(5) substituted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 41](#)

#### Marginal Citations

- M5** 1972 c. 40.  
**M6** 1978 c. 18.

#### [<sup>F16</sup>279A] **Deferred unascertainable consideration: election for treatment of loss**

- (1) Where—
- (a) a person (“the taxpayer”) makes a disposal of a right to which this section applies (see subsection (2) below),
  - (b) on that disposal an allowable loss (“the relevant loss”) would, apart from section 279C, accrue to him in any year (“the year of the loss”), and

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- (c) the year of the loss is a year in which the taxpayer is within the charge to capital gains tax (see section 279B(1)),
- the taxpayer may make an election under this section for the relevant loss to be treated as accruing in an earlier year in accordance with section 279C if condition 1 in subsection (3) below and condition 2 in subsection (5) below are satisfied.
- (2) This section applies to a right if each of the following conditions is satisfied—
- (a) the right was, in whole or in part, acquired by the taxpayer as the whole or part of the consideration for a disposal (the “original disposal”) by him of another asset (the “original asset”),
  - (b) the original disposal was made in a year (“the year of the original disposal”) earlier than the year in which the disposal mentioned in subsection (1)(a) above is made (“the year of the right’s disposal”),
  - (c) where the right was acquired by the taxpayer as the whole or part of the consideration for two or more disposals (each of which is accordingly an “original disposal”), the condition in paragraph (b) above is satisfied with respect to each of those disposals (the “original disposals”),
  - (d) on the taxpayer’s acquisition of the right, there was no corresponding disposal of it,
  - (e) the right is a right to unascertainable consideration (see section 279B(2) to (6)).
- (3) Condition 1 for making an election in relation to the relevant loss is that a chargeable gain accrued to the taxpayer on any one or more of the following events—
- (a) the original disposal,
  - (b) an earlier disposal of the original asset by the taxpayer in the year of the original disposal,
  - (c) a later disposal of the original asset by the taxpayer in a year earlier than the year of the right’s disposal,
- or would have so accrued but for paragraph 2(2)(a) of Schedule 5B or 5C (postponement of original gain). This subsection is subject to subsection (4) below.
- (4) If the right to which this section applies was acquired by the taxpayer as the whole or part of the consideration for two or more original disposals (including cases where there are two or more original assets (the “original assets”))—
- (a) any reference in subsection (3) above to the original disposal is a reference to any of the original disposals,
  - (b) any reference in that subsection to the original asset is a reference to the asset which is the original asset in relation to that original disposal, and
  - (c) any reference in that subsection to the year of the original disposal shall be construed accordingly.
- (5) Condition 2 for making an election in relation to the relevant loss is that there is a year (an “eligible year”)—
- (a) which is earlier than the year of the loss but not earlier than the year 1992-93,
  - (b) in which a chargeable gain falling within subsection (3) above or subsection (6) below accrued to the taxpayer, and
  - (c) for which, immediately before the election, there remains a relevant amount on which capital gains tax is chargeable (see subsection (7) below).
- (6) A chargeable gain falling within this subsection accrues to the taxpayer in a year if—

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- (a) in that year a chargeable gain (the “revived gain”) is treated as accruing to the taxpayer in accordance with paragraphs 4 and 5 of Schedule 5B or 5C (chargeable gain accruing to person on chargeable event), and
  - (b) the gain which, in determining the amount of the revived gain in accordance with those paragraphs, is the original gain consists of or represents the whole or some part of a gain that would have accrued as mentioned in subsection (3) above but for paragraph 2(2)(a) of Schedule 5B or 5C.
- (7) For the purposes of subsection (5)(c) above, a year is one for which, immediately before an election, there remains a relevant amount on which capital gains tax is chargeable if, immediately before the making of that election, there remains an amount in respect of which the taxpayer is chargeable to capital gains tax for the year—
- (a) after taking account of any previous elections made by the taxpayer under this section,
  - (b) after excluding any amounts that fall to be brought into account for that year under section 2(4)(b) by virtue of section 2(5)(b), and
  - (c) on the assumption that no part of the relevant loss (or of any other loss in respect of which an election under this section may be, but has not been, made) falls to be deducted in consequence of an election under this section from the chargeable gains accruing to the taxpayer in that year.
- (8) In this section “year” means year of assessment.
- (9) This section and sections 279B to 279D are to be construed as one.

#### Textual Amendments

**F16** Ss. 279A-279D inserted (with effect in accordance with s. 162(3) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 162\(1\)](#)

### 279B Provisions supplementary to section 279A

- (1) For the purposes of section 279A(1)(c) a person is within the charge to capital gains tax in any year if—
- (a) he is chargeable to capital gains tax in respect of chargeable gains accruing to him in that year, or
  - (b) on the assumption that there accrue to him in that year any chargeable gains (excluding amounts in relation to which section 2(4)(a) applies), he would be so chargeable apart from—
    - (i) any deductions that fall to be made from the total amount referred to in section 2(2), and
    - (ii) section 3 (annual exempt amount).
- (2) Subsections (3) to (6) below have effect for the purposes of section 279A(2)(e) (right to unascertainable consideration).
- (3) A right is a right to unascertainable consideration if, and only if,—
- (a) it is a right to consideration the amount or value of which is unascertainable at the time when the right is conferred, and
  - (b) that amount or value is unascertainable at that time on account of its being referable, in whole or in part, to matters which are uncertain at that time because they have not yet occurred.

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This subsection is subject to subsections (4) to (6) below.

- (4) The amount or value of any consideration is not to be regarded as being unascertainable by reason only—
- (a) that the right to receive the whole or any part of the consideration is postponed or contingent, if the consideration or, as the case may be, that part of it is, in accordance with section 48, brought into account in the computation of the gain accruing to the taxpayer on the disposal of an asset, or
  - (b) in a case where the right to receive the whole or any part of the consideration is postponed and is to be, or may be, to any extent satisfied by the receipt of property of one description or property of some other description, that some person has a right to select the property, or the description of property, that is to be received.
- (5) A right is not to be taken to be a right to unascertainable consideration by reason only that either the amount or the value of the consideration has not been fixed, if—
- (a) the amount will be fixed by reference to the value, and the value is ascertainable, or
  - (b) the value will be fixed by reference to the amount, and the amount is ascertainable.
- (6) A right which is by virtue of subsection (2) or (4) of section 138A (use of earn-out rights for exchange of securities) assumed in accordance with subsection (3)(a) of that section to be a security, within the definition in section 132, is not to be regarded as a right to unascertainable consideration.
- (7) For the purposes of section 279A, any question as to—
- (a) whether a chargeable gain or a loss is one that accrues (or would, apart from any particular provision, accrue) on a particular disposal or a disposal of any particular description, or
  - (b) the time at which, or year in which, any particular disposal takes place,
- is to be determined without regard to section 10A(2) (chargeable gains and losses accruing during temporary non-residence to be treated as accruing in year of return). This subsection is subject to subsection (8) below.
- (8) Subsection (7) above does not affect the determination of any question—
- (a) as to the year in which the chargeable gain or loss is, by virtue of section 10A(2), to be treated as accruing (apart from section 279C), or
  - (b) where (apart from section 279C) a loss is to be treated by virtue of section 10A(2) as accruing in a particular year, whether the loss is an allowable loss.

#### Textual Amendments

**F16** Ss. 279A-279D inserted (with effect in accordance with s. 162(3) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 162\(1\)](#)

### 279C Effect of election under section 279A

- (1) This section applies where an election is made under section 279A by the taxpayer for the relevant loss to be treated as accruing in an earlier year in accordance with this section.

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- (2) Where this section applies, the relevant loss shall be treated for the purposes of capital gains tax as if it were a loss accruing to the taxpayer in the earliest year which is an eligible year (the “first eligible year”), instead of in the year of the loss (but subject to, and in accordance with, the following provisions of this section).
- (3) The amount of the relevant loss that falls to be deducted from chargeable gains of the first eligible year in accordance with section 2(2)(a) is limited to the amount (the “first year limit”) found by taking the following steps—

*Step 1:* take the total amount of chargeable gains accruing to the taxpayer in the first eligible year,

*Step 2:* exclude from that amount any amounts that fall to be disregarded in accordance with section 2(4)(a) for that year,

*Step 3:* deduct from the amount remaining any amounts in respect of allowable losses (other than the relevant loss or any part of it) that fall to be deducted from that amount in accordance with section 2(2) otherwise than by virtue of section 2(5)(aa)(i) (taking account of any previous elections under section 279A).

The amount so found is the first year limit, unless the first eligible year is a year in relation to which section 2(5)(aa) has effect, in which case the further steps in subsection (4) below must also be taken.

- (4) Those further steps are—

*Step 4:* add to the amount found by taking steps 1 to 3 in subsection (3) above every amount which is treated by virtue of section 77 or 86 as an amount of chargeable gains accruing to the taxpayer for the first eligible year (the “attributed amounts”),

*Step 5:* deduct from the resulting amount any amounts (other than the relevant loss or any part of it) that fall to be deducted from the attributed amounts in accordance with section 2(5)(aa)(i) (taking account of any previous elections under section 279A).

The amount so found is the first year limit in a case where section 2(5)(aa) applies in relation to the first eligible year.

- (5) As respects any later year before the year of the loss, the relevant loss (so far as not previously allowed as a deduction from chargeable gains accruing in any previous year) falls to be deducted in accordance with section 2(2)(b) only if that later year is an eligible year.
- (6) The amount of the relevant loss that falls to be deducted from chargeable gains of that later eligible year in accordance with section 2(2)(b) is limited to the amount (the “later year limit”) in respect of which the taxpayer would be chargeable to capital gains tax for that later year—
- on the assumption in subsection (7) below,
  - taking account of any previous elections under section 279A, and
  - apart from the provisions specified in subsection (8) below.
- (7) The assumption is that no part of—
- the relevant loss, or
  - any loss in respect of which an election under section 279A may be, but has not been, made,

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falls to be deducted, in consequence of an election under section 279A, from any chargeable gains accruing to the taxpayer in that later eligible year.

The assumption falls to be made immediately after the making of the election in respect of the relevant loss.

- (8) The provisions are—
- (a) section 2(5)(a)(ii) (taper relief),
  - (b) section 2(5)(aa)(ii) (taper relief),
  - (c) section 2(5)(b) (addition of certain amounts treated as amounts of chargeable gains), and
  - (d) section 2A (taper relief),
- except that paragraphs (b) and (d) above are not to affect the operation of section 2(7) for the purposes of subsection (6) above.
- (9) 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 the election under section 279A made by the taxpayer for the relevant loss to be treated as accruing in an earlier year in accordance with this section.
- (10) Any reference in this section or section 279D to deduction in accordance with section 2(2)(a), section 2(2)(b) or section 2(2) includes a reference to such deduction by virtue of section 2(5)(a)(i) or (aa)(i).

#### Textual Amendments

- F16** Ss. 279A-279D inserted (with effect in accordance with s. 162(3) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 162\(1\)](#)

#### 279D Elections under section 279A

- (1) An election under section 279A is irrevocable.
- (2) Any election under that section must be made by giving a notice in accordance with this section.
- (3) The notice must be given to an officer of the Board.
- (4) Subsections (5) to (8) below have effect in relation to the notice given by the taxpayer in respect of the relevant loss.
- (5) The notice must specify each of the following—
  - (a) the amount of the relevant loss;
  - (b) the right disposed of;
  - (c) the year of the right's disposal;
  - (d) the year of the loss (if different from the year of the right's disposal);
  - (e) the year in which the right was acquired;
  - (f) the original asset or assets.
- (6) The notice must also specify each of the following—
  - (a) the eligible year in which the relevant loss is to be treated in accordance with section 279C(2) as accruing to the taxpayer;

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- (b) the first year limit (see section 279C(3) and (4));
  - (c) how much of the relevant loss falls to be deducted in accordance with section 2(2)(a) from chargeable gains accruing to the taxpayer in that year.
- (7) If, in accordance with section 279C, any part of the relevant loss falls to be deducted in accordance with section 2(2)(b) from chargeable gains accruing to the taxpayer in any later eligible year, the notice must also specify—
- (a) each such year;
  - (b) in the case of each such year, the later year limit (see section 279C(6));
  - (c) how much of the relevant loss falls to be deducted in accordance with section 2(2)(b) in each such year from chargeable gains accruing to the taxpayer in that year.
- (8) The notice must be given on or before the first anniversary of the 31st January next following the year of the loss.
- (9) An election under section 279A is made on the date on which the notice of the election is given.
- (10) Different notices must be given in respect of different losses.
- (11) Where a person makes two or more elections under section 279A on the same day, the notices must specify the order in which the elections are made.
- (12) For the purposes of any provisions of sections 279A to 279C whose operation is affected by the order in which any elections under section 279A are made, elections made by a person on the same day shall be treated as made at different times and in the order specified in accordance with subsection (11) above.]

#### Textual Amendments

**F16** Ss. 279A-279D inserted (with effect in accordance with s. 162(3) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 162\(1\)](#)

### 280 Consideration payable by instalments.

If the consideration, or part of the consideration, taken into account in the computation of the gain is payable by instalments over a period beginning not earlier than the time when the disposal is made, being a period exceeding 18 months, then, [<sup>F17</sup>at the option of the person making the disposal, the tax on a chargeable gain accruing on the disposal may] be paid by such instalments as the Board may allow over a period not exceeding 8 years and ending not later than the time at which the last of the first-mentioned instalments is payable.

#### Textual Amendments

**F17** Words in s. 280 substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 65](#)

### 281 Payment by instalments of tax on gifts.

- (1) Subsection (2) below applies where—



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- (a) the whole or any part of any assets to which this section applies is disposed of by way of gift or is deemed to be disposed of under section 71(1) or 72(1), and
  - (b) the disposal is one—
    - (i) to which neither section 165(4) nor section 260(3) applies (or would apply if a claim were duly made), or
    - (ii) to which either of those sections does apply but on which the held-over gain (within the meaning of the section applying) is less than the chargeable gain which would have accrued on that disposal apart from that section.
- (2) Where this subsection applies, the capital gains tax chargeable on a gain accruing on the disposal may, if the person paying it by notice to the inspector so elects, be paid by 10 equal yearly instalments.
- (3) The assets to which this section applies are—
- (a) land or an estate or interest in land,
  - (b) any shares or securities of a company which, immediately before the disposal, gave control of the company to the person by whom the disposal was made or deemed to be made, and
  - (c) any shares or securities of a company not falling under paragraph (b) above and not [<sup>F18</sup>listed] on a recognised stock exchange nor dealt in on the Unlisted Securities Market.
- (4) Where tax is payable by instalments by virtue of this section, the first instalment shall be due on the day on which the tax would be payable apart from this section.
- (5) Subject to the following provisions of this section—
- [<sup>F19</sup>(a) tax payable by instalments by virtue of this section carries interest in accordance with Part IX of the Management Act as that Part applies where no election is made under subsection (2) above, and]
  - (b) the interest on the unpaid portion of the tax shall be added to each instalment and paid accordingly.
- (6) Tax payable by instalments by virtue of this section which is for the time being unpaid, with interest [<sup>F20</sup>(determined in accordance with subsection (5)(a) above)] to the date of payment, may be paid at any time.
- (7) Tax which apart from this subsection would be payable by instalments by virtue of this section and which is for the time being unpaid, with interest [<sup>F21</sup>(determined in accordance with subsection (5)(a) above as if the tax were tax payable by instalments by virtue of this section)] to the date of payment, shall become due and payable immediately if—
- (a) the disposal was by way of gift to a person connected with the donor or was deemed to be made under section 71(1) or 72(1), and
  - (b) the assets are disposed of for valuable consideration under a subsequent disposal (whether or not the subsequent disposal is made by the person who acquired them under the first disposal).

#### Textual Amendments

- F18** Word in s. 281(3)(c) substituted (with effect in accordance with Sch. 38 para. 10(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 38 para. 10\(2\)\(e\)](#)

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- F19** S. 281(5)(a) substituted (with effect in accordance with Sch. 18 para. 17(3) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 18 para. 15(2)**
- F20** Words in s. 281(6) inserted (with effect in accordance with Sch. 18 para. 17(3) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 18 para. 15(3)**
- F21** Words in s. 281(7) inserted (with effect in accordance with Sch. 18 para. 17(3) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 18 para. 15(4)**

## 282 Recovery of tax from donee.

- (1) If in any year of assessment a chargeable gain accrues to any person on the disposal of an asset by way of gift and any amount of capital gains tax assessed on that person for that year of assessment is not paid within 12 months from the date when the tax becomes payable, the donee may, by an assessment made not later than 2 years from the date when the tax became payable, be assessed and charged (in the name of the donor) to capital gains tax on an amount not exceeding the amount of the chargeable gain so accruing, and not exceeding the grossed up amount of that capital gains tax unpaid at the time when he is so assessed, grossing up at the marginal rate of tax, that is to say, taking capital gains tax on a chargeable gain at the amount which would not have been chargeable but for that chargeable gain.
- (2) A person paying any amount of tax in pursuance of this section shall be entitled to recover a sum of that amount from the donor.
- (3) References in this section to a donor include, in the case of an individual who has died, references to his personal representatives.
- (4) In this section references to a gift include references to any transaction otherwise than by way of a bargain made at arm's length so far as money or money's worth passes under the transaction without full consideration in money or money's worth, and "donor" and "donee" shall be construed accordingly; and this section shall apply in relation to a gift made by 2 or more donors with the necessary modifications and subject to any necessary apportionments.

## 283 Repayment supplements.

- (1) Subject to the provisions of this section, where in the case of capital gains tax paid by or on behalf of an individual for a year of assessment [<sup>F22</sup>a repayment of that tax is made by the Board or an officer of the Board], the repayment shall be increased under this section by an amount ("a repayment supplement") equal to interest on the amount repaid at the rate applicable under section 178 of the <sup>M7</sup>Finance Act 1989 for the period (if any) between the relevant time and [<sup>F23</sup>the date on which] the order for the repayment is issued.
- [<sup>F24</sup>(2) For the purposes of subsection (1) above, [<sup>F25</sup>the relevant time is the date on which the tax was paid].]
- (3) A repayment supplement shall not be payable under this section in respect of a repayment or payment made in consequence of an order or judgment of a court having power to allow interest on the repayment or payment.
- (4) Subsections (1) to (3) above shall apply in relation to a [<sup>F26</sup>trust or], the personal representatives of a deceased person as such (within the meaning of section 701(4) of that Act) as they apply in relation to an individual.

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<sup>F27</sup>(5) .....

#### Textual Amendments

- F22** Words in s. 283(1) substituted (with effect in accordance with s. 199(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 46\(1\)\(a\)](#)
- F23** Words in s. 283(1) substituted (with effect in accordance with s. 199(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 46\(1\)\(b\)](#)
- F24** S. 283(2) substituted (with effect in accordance with s. 199(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 46\(2\)](#)
- F25** Words in s. 283(2) substituted (with effect in accordance with s. 92(6) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [s. 92\(5\)](#)
- F26** Words in s. 283(4) substituted (with effect in accordance with s. 199(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 46\(3\)](#)
- F27** S. 283(5) repealed (with effect in accordance with s. 199(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 46\(4\)](#), [Sch. 26 Pt. V\(23\)](#)

#### Marginal Citations

**M7** [1989 c. 26](#).

## 284 Income tax decisions.

Any assessment to income tax or decision on a claim under the Income Tax Acts, and any decision on an appeal under the Income Tax Acts against such an assessment or decision, shall be conclusive so far as, under any provision of this Act, liability to tax depends on the provisions of the Income Tax Acts.

### <sup>F28</sup>284A Concessions that defer a charge.

- (1) This section applies where—
- a person (“the original taxpayer”) has at any time obtained for any chargeable period (“the first chargeable period”) the benefit of any capital gains relief to which he had no statutory entitlement;
  - the benefit of the relief was obtained in reliance on any concession;
  - the concession was first published by the Board before 9th March 1999 or (having been published on or after that date) replaced a concession satisfying the requirements of this paragraph with a concession to the same or substantially the same effect; and
  - the concession involved the application (with or without modifications), to a case to which they would not otherwise have applied, of the provisions of any enactment (“the relevant statutory provisions”).
- (2) This section applies only if, at the time when the original taxpayer obtained the benefit of the relief, the concession was one available generally to any person falling within its terms.
- (3) If the benefit obtained for the first chargeable period by the original taxpayer is repudiated for any later chargeable period (whether by the original taxpayer or by another person), the enactments relating to the taxation of chargeable gains shall have effect as if a chargeable gain equal to the amount of that benefit accrued in the later chargeable period to the person repudiating the benefit.

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- (4) For the purposes of this section—
- (a) a capital gains relief for any chargeable period is a relief (of whatever description) the effect of which is that the amount of the chargeable gains taken to have accrued to that person in that period is less than it otherwise would have been; and
  - (b) the amount of the benefit of any such relief is the amount by which, as a consequence of that relief, those gains are less than they otherwise would have been.
- (5) Where, without applying a specific enactment, any concession has the effect that—
- (a) any asset is treated as the same as another asset and as acquired as the other asset was acquired,
  - (b) any two or more assets are treated as a single asset, or
  - (c) any disposal is treated as having been a disposal on which neither a gain nor a loss accrued,
- that concession shall be assumed for the purposes of this section to have involved the application, to a case to which it would not otherwise have applied, of the provisions of an enactment to the corresponding effect.
- (6) For the purposes of this section the benefit of any relief obtained by the original taxpayer for the first chargeable period is repudiated by a person for a later chargeable period if—
- (a) circumstances arise such that, had the equivalent circumstances arisen in the case of the corresponding relief under the relevant statutory provisions, the whole or a part of the benefit of that relief would have fallen to be recouped from that person in the later chargeable period;
  - (b) apart from this section, the recoupment in the actual circumstances of the whole or a part of the benefit obtained by the original taxpayer is prevented by the fact that the original taxpayer relied on a concession (rather than on the relevant statutory provisions) to obtain that benefit; and
  - (c) the person from whom, in the equivalent circumstances, the amount of the benefit or any part of it would have fallen to be recouped is not precluded by subsection (8) below from relying on that fact in relation to that amount or part.
- (7) For the purposes of this section an amount of the benefit of a capital gains relief is recouped from any person in a chargeable period to the extent that an amount is so brought into account in his case for that period as to secure that—
- (a) the amount of his chargeable gains for that period is taken to be more than it otherwise would have been by an amount directly or indirectly representing the whole or a part of the amount of the benefit; or
  - (b) the amount of his allowable losses for that period is taken to be less than it otherwise would have been by an amount directly or indirectly representing the whole or a part of the amount of the benefit.
- (8) Where—
- (a) any such circumstances as are mentioned in subsection (6)(a) above have arisen in relation to the relief the benefit of which has been obtained by the original taxpayer,
  - (b) the person from whom, in the equivalent circumstances, the whole or any part of the amount of the benefit would have fallen to be recouped has accepted

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that, in the actual circumstances, the whole or a part of the benefit obtained by the original taxpayer may be recouped from him, and

- (c) that acceptance is indicated in writing to the Board (whether by the making or amendment of a self-assessment or otherwise),

that person's rights subsequently to amend, appeal against or otherwise challenge any assessment shall not be exercised in any manner inconsistent with his acceptance of that matter (which shall be irrevocable).

- (9) In this section “concession” includes any practice, interpretation or other statement in the nature of a concession.

#### Textual Amendments

**F28** Ss. 284A, 284B inserted (with effect in accordance with s. 76(2) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 76\(1\)](#)

#### 284B Provisions supplementary to section 284A.

- (1) Chargeable gains that are treated as accruing to any person under section 284A(3) shall not be eligible for taper relief.
- (2) The total amount of chargeable gains that are treated as accruing to any person under subsection (3) of section 284A in respect of any such benefit as is referred to in that subsection shall not exceed the amount of that benefit.
- (3) Where, after any assessment to tax has been made on the basis that any chargeable gain is treated as having accrued to any person under section 284A(3)—
- the person assessed, within any of the periods allowed by subsection (4) below, gives an indication for the purposes of section 284A(8), or
  - a final determination of the original taxpayer's liability to tax for the first chargeable period is made on the basis that the original taxpayer did not, or was not entitled to, rely on the concession in question,
- all such adjustments shall be made (whether by way of assessment, amendment of an assessment, repayment of tax or otherwise) as are necessary to secure that no person is subjected to any greater liability by virtue of section 284A(3) than he would have been had the indication been given, or the final determination made, before the making of the assessment.
- (4) The periods allowed by this subsection are—
- the period of twelve months beginning with the making of the assessment;
  - the period within which the person is entitled to amend his self-assessment or company tax return for the chargeable period in which the chargeable gain under section 284A(3) is treated as having accrued to him;
  - where the person makes a claim for any further relief against the amount that may be recouped from him by virtue of his indication under section 284A(8), the period allowed for making that claim.
- (5) Subsection (3) above has effect notwithstanding any time limits relating to the making or amendment of an assessment for any chargeable period.]

*Status: Point in time view as at 10/07/2003.*

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#### Textual Amendments

**F28** Ss. 284A, 284B inserted (with effect in accordance with s. 76(2) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 76\(1\)](#)

### 285 Recognised investment exchanges.

The Board may by regulations make provision securing that enactments relating to tax on chargeable gains and referring to The Stock Exchange have effect, for such purposes and subject to such modifications as may be prescribed by the regulations, in relation to all other recognised investment exchanges (within the meaning [<sup>F29</sup> given by section 285(1)(a) of the Financial Services and Markets Act 2000]), or in relation to such of those exchanges as may be so prescribed.

#### Textual Amendments

**F29** Words in s. 285 substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), arts. 1(2)(a), [69](#)

### 286 Connected persons: interpretation.

- (1) Any question whether a person is connected with another shall for the purposes of this Act be determined in accordance with the following subsections of this section (any provision that one person is connected with another being taken to mean that they are connected with one another).
- (2) A person is connected with an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual's husband or wife.
- [<sup>F30</sup>(3) A person, in his capacity as trustee of a settlement, is connected with—
  - (a) any individual who in relation to the settlement is a settlor,
  - (b) any person who is connected with such an individual, and
  - (c) any body corporate which is connected with that settlement.

In this subsection “settlement” and “settlor” have the same meaning as in Chapter IA of Part XV of the Taxes Act (see section 660G(1) and (2) of that Act).

- (3A) For the purpose of subsection (3) above a body corporate is connected with a settlement if—
  - (a) it is a close company (or only not a close company because it is not resident in the United Kingdom) and the participators include the trustees of the settlement; or
  - (b) it is controlled (within the meaning of section 840 of the Taxes Act) by a company falling within paragraph (a) above.]
- (4) Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements, a person is connected with any person with whom he is in partnership, and with the husband or wife or a relative of any individual with whom he is in partnership.
- (5) A company is connected with another company—

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- (a) if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other, or
  - (b) if a group of 2 or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected.
- (6) A company is connected with another person, if that person has control of it or if that person and persons connected with him together have control of it.
- (7) Any 2 or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.
- (8) In this section “relative” means brother, sister, ancestor or lineal descendant.

#### Textual Amendments

**F30** S. 286(3)(3A) substituted for s. 286(3) (with effect in accordance with s. 74(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 17 para. 31](#)

#### 287 Orders and regulations made by the Treasury or the Board.

- (1) Subject to subsection (2) below, any power of the Treasury or the Board to make any order or regulations under this Act or any other enactment relating to the taxation of chargeable gains passed after this Act shall be exercisable by statutory instrument.
- (2) Subsection (1) above shall not apply in relation to any power conferred by section 288(6).
- (3) Subject to subsection (4) below and to any other provision to the contrary, any statutory instrument to which subsection (1) above applies shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (4) Subsection (3) above shall not apply in relation to an order or regulations made under section 3(4) or 265 or paragraph 1 of Schedule 9, or—
  - (a) if any other Parliamentary procedure is expressly provided; or
  - (b) if the order in question is an order appointing a day for the purposes of any provision, being a day as from which the provision will have effect, with or without amendments, or will cease to have effect.

#### 288 Interpretation.

- (1) In this Act, unless the context otherwise requires—
  - “the 1979 Act” means the <sup>M8</sup>Capital Gains Tax Act 1979;
  - <sup>F31</sup> .....
  - “allowable loss” shall be construed in accordance with sections 8(2)<sup>F32</sup>, 16 and 263ZA];
  - “the Board” means the Commissioners of Inland Revenue;



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“building society” has the same meaning as in the <sup>M9</sup>Building Societies Act 1986;

[<sup>F33</sup>“the Capital Allowances Act” means the Capital Allowances Act 2001;]

“chargeable period” means a year of assessment or an accounting period of a company for purposes of corporation tax;

“class”, in relation to shares or securities, means a class of shares or securities of any one company;

“close company” has the meaning given by sections 414 and 415 of the Taxes Act;

“collective investment scheme” has the [<sup>F34</sup>meaning given by section 235 of the Financial Services and Markets Act 2000];

“company” includes any body corporate or unincorporated association but does not include a partnership, and shall be construed in accordance with section 99;

“control” shall be construed in accordance with section 416 of the Taxes Act;

“double taxation relief arrangements” means, in relation to a company, arrangements having effect by virtue of section 788 of the Taxes Act and, in relation to any other person, means arrangements having effect by virtue of that section as extended to capital gains tax by section 277;

“dual resident investing company” has the meaning given by section 404 of the Taxes Act;

“inspector” means any inspector of taxes;

“investment trust” has the meaning given by section 842 of the Taxes Act;

[<sup>F35</sup>“ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003;]

“land” includes messuages, tenements, and hereditaments, houses and buildings of any tenure;

“local authority” has the meaning given by section 842A of the Taxes Act;

“the Management Act” means the <sup>M10</sup>Taxes Management Act 1970;

“notice” means notice in writing;

[<sup>F36</sup>“period of account” has the meaning given by section 832(1) of the Taxes Act;]

[<sup>F37</sup>“permanent establishment”, in relation to a company, has the meaning given by section 148 of the Finance Act 2003;]

“personal representatives” has the meaning given by section 701(4) of the Taxes Act;

[<sup>F38</sup>“property investment LLP” has the meaning given by section 842B of the Taxes Act;]

“recognised stock exchange” has the meaning given by section 841 of the Taxes Act;

“shares” includes stock;

“the Taxes Act” means the <sup>M11</sup>Income and Corporation Taxes Act 1988;

“trade” has the same meaning as in the Income Tax Acts;

“trading stock” has the meaning given by section 100(2) of the Taxes Act;

[<sup>F39</sup>“venture capital trust” has the meaning given by section 842AA of the Taxes Act;]

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“wasting asset” has the meaning given by section 44 and paragraph 1 of Schedule 8;

“year of assessment” means, in relation to capital gains tax, a year beginning on 6th April and ending on 5th April in the following calendar year, and “1992-93” and so on indicate years of assessment as in the Income Tax Acts;

and any reference to a particular section, Part or Schedule is a reference to that section or Part of, or that Schedule to, this Act.

[<sup>F40</sup>(1A) If any employment-related securities option would not otherwise be regarded as an option for the purposes of this Act, it shall be so regarded; and the acquisition of securities by an associated person pursuant to an employment-related securities option is to be treated for the purposes of this Act as the exercise of the option.

Expressions used in this subsection and Chapter 5 of Part 7 of ITEPA 2003 have the same meaning in this subsection as in that Chapter.]

(2) In this Act “retail prices index” has the same meaning as in the Income Tax Acts and, accordingly, any reference in this Act to the retail prices index shall be construed in accordance with section 833(2) of the Taxes Act.

(3) References in this Act to a married woman living with her husband shall be construed in accordance with section 282 of the Taxes Act.

<sup>F41</sup>(4) .....

(5) For the purposes of this Act, shares or debentures comprised in any letter of allotment or similar instrument shall be treated as issued unless the right to the shares or debentures thereby conferred remains provisional until accepted and there has been no acceptance.

(6) In this Act “recognised futures exchange” means the London International Financial Futures Exchange and any other futures exchange which is for the time being designated for the purposes of this Act by order made by the Board.

(7) An order made by the Board under subsection (6) above—

(a) may designate a futures exchange by name or by reference to any class or description of futures exchanges, including, in the case of futures exchanges in a country outside the United Kingdom, a class or description framed by reference to any authority or approval given in that country; and

(b) may contain such transitional and other supplemental provisions as appear to the Board to be necessary or expedient.

(8) The Table below indexes other general definitions in this Act.

<i>Expression defined</i>	<i>Reference</i>
“Absolutely entitled as against the trustee”	S.60(2)
[ <sup>F42</sup> “Authorised corporate director”	S.272(5AB) (as that provision is inserted by regulation 22(b) of the Open-ended Investment Companies (Tax) Regulations 1997)]
“Authorised unit trust”	S.99

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“Branch or agency”	S.10(6)
“Chargeable gain”	S.15(2)
“Connected”, in references to persons being connected with one another	S.286
“Court investment fund”	S.100
“Gilt-edged securities”	Sch.9
“Indexation allowance”	S.53
“Lease” and cognate expressions	Sch.8 para.10(1)
“Legatee”	S.64(2),(3)
“Market value”	S.272 to 274 and Sch.11
[ <sup>F43</sup> “Open-ended investment company”	S.99 (as that section is modified by regulation 20 of the Open-ended Investment Companies (Tax) Regulations 1997)]
“Part disposal”	S.21(2)
“Qualifying corporate bond”	S.117
“Relevant allowable expenditure”	S.53
“Resident” and “ordinarily resident”	S.9(1)
“Settled property”	S.68
“Unit trust scheme”	S.99

#### Textual Amendments

- F31** Words in s. 288(1) repealed (22.3.2001) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 80, Sch. 4](#)
- F32** Words in s. 288(1) 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. 219\(2\)](#) (with Sch. 7)
- F33** Words in s. 288(1) inserted (22.3.2001) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 80](#)
- F34** Words in s. 288(1) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\), arts. 1\(2\)\(a\), 70](#)
- F35** Words in s. 288(1) 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. 219\(3\)](#) (with Sch. 7)
- F36** Words in s. 288(1) inserted (with effect in accordance with s. 103(6) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 103\(3\)](#)
- F37** Words in s. 288(1) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\), s. 148\(7\)](#)
- F38** Words in s. 288(1) 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. 1\(3\)](#) (with Sch. 3)
- F39** Words in s. 288(1) inserted (with effect in accordance with s. 72(8) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 72\(7\)](#)
- F40** S. 288(1A) inserted (with effect in accordance with Sch. 22 para. 54(2) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 22 para. 54\(1\)](#)
- F41** S. 288(4) repealed (with effect in accordance with Sch. 41 Pt. VIII(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 41 Pt. VIII\(3\)](#)
- F42** Words in s. 288(8) inserted (28.4.1997) by [The Open-ended Investment Companies \(Tax\) Regulations 1997 \(S.I. 1997/1154\), regs. 1\(1\), 23\(a\)](#)

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**F43** Words in s. 288(8) inserted (28.4.1997) by [The Open-ended Investment Companies \(Tax\) Regulations 1997 \(S.I. 1997/1154\)](#), regs. 1(1), **23(b)**

#### Marginal Citations

**M8** 1979 c. 14.  
**M9** 1986 c. 53.  
**M10** 1970 c. 9.  
**M11** 1988 c. 1.

## 289 Commencement.

- (1) Except where the context otherwise requires, this Act has effect in relation to tax for the year 1992-93 and subsequent years of assessment, and tax for other chargeable periods beginning on or after 6th April 1992, and references to the coming into force of this Act or any provision in this Act shall be construed accordingly.
- (2) The following provisions of this Act, that is—
  - (a) so much of any provision of this Act as authorises the making of any order or other instrument, and
  - (b) except where the tax concerned is all tax for chargeable periods to which this Act does not apply, so much of any provision of this Act as confers any power or imposes any duty the exercise or performance of which operates or may operate in relation to tax for more than one chargeable period,
 shall come into force for all purposes on 6th April 1992 to the exclusion of the corresponding enactments repealed by this Act.

## 290 Savings, transitionals, consequential amendments and repeals.

- (1) Schedules 10 (consequential amendments) and 11 (transitory provisions and savings) shall have effect.
- (2) No letters patent granted or to be granted by the Crown to any person, city, borough or town corporate of any liberty, privilege, or exemption from subsidies, tolls, taxes, assessments or aids, and no statute which grants any salary, annuity or pension to any person free of any taxes, deductions or assessments, shall be construed or taken to exempt any person, city, borough or town corporate, or any inhabitant of the same, from tax chargeable in pursuance of this Act.
- (3) Subject to Schedule 11, the enactments and instruments mentioned in Schedule 12 to this Act are hereby repealed to the extent specified in the third column of that Schedule (but Schedule 12 shall not have effect in relation to any enactment in so far as it has previously been repealed subject to a saving which still has effect on the coming into force of this section).
- (4) The provisions of this Part of this Act are without prejudice to the provisions of the <sup>M12</sup>Interpretation Act 1978 as respects the effect of repeals.

#### Marginal Citations

**M12** 1978 c. 30.

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**291 Short title.**

This Act may be cited as the Taxation of Chargeable Gains Act 1992.

**Status:**

Point in time view as at 10/07/2003.

**Changes to legislation:**

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