



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART V

TRANSFER OF BUSINESS ASSETS^[F1], ENTREPRENEURS' RELIEF AND INVESTORS' RELIEF

CHAPTER I

[F1]TRANSFER OF BUSINESS ASSETS:] GENERAL PROVISIONS

Stock in trade

161 Appropriations to and from stock.

- (1) Subject to ^[F1]subsection (3)] below, where an asset acquired by a person otherwise than as trading stock of a trade carried on by him is appropriated by him for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise) and, if he had then sold the asset for its market value, a chargeable gain or allowable loss would have accrued to him, he shall be treated as having thereby disposed of the asset by selling it for its then market value.
- (2) If at any time an asset forming part of the trading stock of a person's trade is appropriated by him for any other purpose, or is retained by him on his ceasing to carry on the trade, he shall be treated as having acquired it at that time for a consideration equal to the amount brought into the accounts of the trade in respect of it for tax purposes on the appropriation or on his ceasing to carry on the trade, as the case may be.
- (3) Subject to subsection (4) below, subsection (1) above shall not apply in relation to ^[F2]a case where a chargeable gain would have accrued to a person on the appropriation of an asset for the purposes of a trade as mentioned in that subsection)]^[F3]if—
 - (a) he is chargeable to corporation tax in respect of the profits of the trade ^[F4]under Chapter 2 of Part 3 of CTA 2009 and the trade is carried on wholly or partly in the United Kingdom], or

Status: Point in time view as at 02/12/2019.

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- (b) he is chargeable to income tax in respect of the profits of the trade under Chapter 2 of Part 2 of ITTOIA 2005 and the trade is carried on wholly or partly in the United Kingdom,

and he elects] that instead the market value of the asset at the time of the appropriation shall, in computing the profits of the trade for purposes of tax, be treated as reduced by the amount of [^{F5}that chargeable gain, and where subsection (1)] does not apply by reason of such an election, the profits of the trade shall be computed accordingly.

^{F6}(3ZA)

^{F7}(3ZB)

[^{F8}(3A) An election under subsection (3) ^{F9}... 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 ends the period of account in which the asset is appropriated for the purposes of the trade as trading stock;
- (b) for the purposes of corporation tax, within 2 years after the end of the accounting period in which the asset is appropriated for the purposes of the trade as trading stock;

^{F10}

- (4) If a person making an election under subsection (3) [^{F11}or (3ZA)] is at the time of the appropriation carrying on the trade in partnership with others, the election shall not have effect unless concurred in by the others.

[^{F12}(5) If—

- [^{F13}(a) any person is charged to income tax by virtue of sections 517B and 517C of ITA 2007 (certain profits or gains on a disposal of land treated as trading profits) on the realisation of a profit or gain because the condition in section 517B(7) of that Act is met, and]
- (b) the gain is calculated on the basis that any property was appropriated as trading stock,

the property shall be treated on that basis also for the purposes of this section.]

[^{F14}(6) If—

- [^{F15}(a) any person is charged to corporation tax by virtue of sections 356OB and 356OC of CTA 2010 (certain profits or gains on a disposal of land treated as trading profits) on the realisation of a profit or gain because the condition in section 356OB(7) of that Act is met, and]
- (b) the gain is calculated on the basis that any property was appropriated as trading stock,

the property shall be treated on that basis also for the purposes of this section.]

Textual Amendments

- F1** Words in s. 161(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. 54\(2\)](#)
- F2** Words in s. 161(3) substituted (with effect in accordance with s. 26(4) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [s. 26\(2\)\(a\)](#)

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- F3** Words in s. 161(3) substituted (with effect in accordance with art. 1(3)(4) of the amending S.I.) by [The Income Tax \(Trading and Other Income\) Act 2005 \(Consequential Amendments\) Order 2006 \(S.I. 2006/959\)](#), arts. 1(2), **3(3)**
- F4** Words in s. 161(3)(a) 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. 374** (with [Sch. 2 Pts. 1, 2](#))
- F5** Words in s. 161(3) substituted (with effect in accordance with s. 26(4) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **s. 26(2)(b)**
- F6** S. 161(3ZA) omitted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), **Sch. 1 para. 54(3)**
- F7** S. 161(3ZB) omitted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), **Sch. 1 para. 54(3)**
- F8** S. 161(3A) inserted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 21 para. 36**
- F9** Words in s. 161(3A) omitted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), **Sch. 1 para. 54(4)**
- F10** Words in s. 161(3A) repealed (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 40 Pt. 3(16)**
- F11** Words in s. 161(4) inserted (with effect in accordance with Sch. 25 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 25 para. 11(5)**
- F12** S. 161(5) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 321** (with [Sch. 2](#))
- F13** S. 161(5)(a) substituted (with effect in accordance with s. 82 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **s. 79(10)** (with savings in 2017 c. 32, s. 39(1)(2))
- F14** S. 161(6) 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. 240** (with [Sch. 2](#))
- F15** S. 161(6)(a) substituted (with effect in accordance with s. 81 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **s. 77(9)** (with savings in 2017 c. 32, s. 39(1)(2))

Modifications etc. (not altering text)

- C1** S. 161 applied (with modifications) (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 26 para. 45(2)**

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