



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VII U.K.

OTHER PROPERTY, BUSINESSES, INVESTMENTS ETC.

Charities and gifts of non-business assets etc.

258 Works of art etc. U.K.

^{F1}(1)

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

- (a) the disposal is by way of sale by private treaty to a body mentioned in Schedule 3 to the [^{F2}Inheritance Tax Act 1984 (“the 1984 Act”)] (museums, etc.), or is to such a body otherwise than by sale, or
- (b) the disposal is to the Board in pursuance of section 230 of the 1984 Act or in accordance with directions given by the Treasury under section 50 or 51 of the ^{M1}Finance Act 1946 (acceptance of property in satisfaction of tax).

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

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

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

Status: Point in time view as at 22/03/2006. This version of this provision has been superseded.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 258 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(4) The person making a disposal to which subsection (3) above applies and the person acquiring the asset on the disposal shall be treated for all the purposes of this Act as if the asset was acquired from the one making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.

(5) If—

- (a) there is a sale of the asset and inheritance tax is chargeable under section 32 of the 1984 Act (or would be chargeable if an inheritance tax undertaking as well as an undertaking under this section had been given), or
- (b) the Board are satisfied that at any time during the period for which any such undertaking was given it has not been observed in a material respect,

the person selling that asset or, as the case may be, the owner of the asset shall be treated for the purposes of this Act as having sold the asset for a consideration equal to its market value, and, in the case of a failure to comply with the undertaking, having immediately reacquired it for a consideration equal to its market value.

(6) The period for which an undertaking under this section is given shall be until the person beneficially entitled to the asset dies or it is disposed of, whether by sale or gift or otherwise; and if the asset subject to the undertaking is disposed of—

- (a) otherwise than on sale, and
- (b) without a further undertaking being given under this section,

subsection (5) above shall apply as if the asset had been sold to an individual.

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

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

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

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

[^{F3}(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.

Status: Point in time view as at 22/03/2006. This version of this provision has been superseded.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 258 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F1** 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**
- F2** Words in s. 258(2)(a) substituted (with effect in accordance with s. 143(7) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **s. 143(7)**
- F3** S. 258(8A) inserted (with effect in accordance with Sch. 25 para. 9(2) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 25 para. 9(1)**
-

Marginal Citations

- M1** 1946 c. 64.

Status:

Point in time view as at 22/03/2006. This version of this provision has been superseded.

Changes to legislation:

Taxation of Chargeable Gains Act 1992, Section 258 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.