



# Finance Act 1965

## 1965 CHAPTER 25

### PART III

#### CAPITAL GAINS.

##### *Exemptions and reliefs.*

#### **27 Miscellaneous exemptions for certain kinds of property.**

- (1) A mechanically propelled road vehicle constructed or adapted for the carriage of passengers shall not be a chargeable asset, except for a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used.
- (2) A gain accruing to an individual on a disposal by way of gift of an asset the market value of which does not exceed one hundred pounds shall not be a chargeable gain, but this subsection and section 17(6) of this Act shall not together apply to gifts made by the same individual in the same year of assessment the total value of which exceeds one hundred pounds.
- (3) If the adjusted sale price and adjusted purchase price to be taken into account under Schedule 6 to this Act in computing the amount of a gain accruing on a disposal of securities of one of the descriptions in Schedule 9 to this Act are both within the exempt price range specified in that Schedule for those securities a gain accruing on that disposal shall not be a chargeable gain (and a loss so accruing shall not be an allowable loss) and if the range between those prices overlaps that exempt price range a proportion of a gain so accruing shall not be a chargeable gain, which shall be the proportion which the part of the range between those prices which overlaps that exempt price range bears to the whole of the range between those prices (and correspondingly a part of a loss so accruing shall not be an allowable loss).

In this subsection " adjusted sale price " means the amount of the consideration for the disposal and " adjusted purchase price " means the amount of the consideration for the acquisition (that is the acquisition by the person making the disposal), both adjusted, where the nominal amount of the securities being disposed of is not one hundred pounds, to represent a price for a nominal amount of one hundred pounds.

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- (4) Savings certificates and non-marketable securities issued under the National Loans Act 1939 or any corresponding enactment forming part of the law of Northern Ireland shall not be chargeable assets.
- (5) 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).
- (6) 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.
- (7) It is hereby declared that winnings from betting, including pool betting, or lotteries or games with prizes, are not chargeable gains, and rights to winnings obtained by participating in any pool betting or lottery or game with prizes shall not constitute chargeable assets.
- (8) It is hereby declared that sums obtained by way of compensation or damages for any wrong or injury suffered by an individual in his person or in his profession or vocation are not chargeable gains.
- (9) In subsection (4) of this section—
  - (a) " savings certificates " means savings certificates issued under section 7 of the National Debt Act 1958 or section 59 of the Finance Act 1920, and any war savings certificates as defined in section 11(2) of the National Debt Act 1958, together with any savings certificates issued under any enactment forming part of the law of Northern Ireland and corresponding to the said enactments, and
  - (b) " non-marketable securities " means securities which are not transferable, or which are transferable only with the consent of some Minister of the Crown, or the consent of a department of the Government of Northern Ireland, or only with the consent of the National Debt Commissioners.
- (10) If under this section an asset is not a chargeable asset, then no chargeable gain or allowable loss shall accrue on its disposal.

## **28 Life assurance and deferred annuities.**

- (1) This section has effect as respects any policy of assurance or contract for a deferred annuity on the life of any person.
- (2) No chargeable gain shall accrue on the disposal of, or of an interest in, the rights under any such policy of assurance or contract except where the person making the disposal is not the original beneficial owner and acquired the rights or interests for a consideration in money or money's worth.
- (3) Subject to subsection (2) above, the occasion of the payment of the sum or sums assured by a policy of assurance or of the first instalment of a deferred annuity, and the occasion of the surrender of a policy of assurance or of the rights under a contract for a deferred annuity, shall be the occasion of a disposal of the rights under the policy of assurance or contract for a deferred annuity, and the amount of the consideration for the disposal of a contract for a deferred annuity shall be the market value at that time of the right to that and further instalments of the annuity.

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## 29 Private residences.

(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 an area (inclusive of the site of the dwelling-house) of one acre or such larger area as the Commissioners concerned may in any particular case determine, on being satisfied that, regard being had to the size and character of the dwelling-house, the larger area is required for the reasonable enjoyment of it (or of the part in question) as a residence.

In the case where part of the land occupied with a residence is and part is not within this subsection, then (up to the permitted area) that part shall be taken to be within this subsection which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residence.

(2) The gain shall not 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 twelve months of that period.

(3) Where subsection (2) of this section does not apply a fraction of the gain shall not be a chargeable gain, and that fraction shall be—

- (a) the length of the part or parts of the period of ownership during which the dwelling-house or the part of the dwelling-house was the individual's only or main residence, but inclusive of the last twelve months of the period of ownership in any event, divided by
- (b) the length of the period of ownership.

(4) For the purposes of subsections (2) and (3) of this section—

- (a) a period of absence not exceeding three years (or periods of absence which together did not exceed three years), and in addition
- (b) any period of absence throughout which the individual worked in an employment or office all the duties of which were performed outside the United Kingdom, and in addition
- (c) any period of absence not exceeding four years (or periods of absence which together did not exceed four 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,

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

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

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- (5) If the gain accrues from the disposal of a dwelling-house or part of a dwelling-house part of which is used exclusively for the purposes of a trade or business or of a profession or vocation, the gain shall be apportioned and the foregoing subsections shall apply in relation to the part of the gain apportioned to the part which is not exclusively used for those purposes.
- (6) 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 this section may be adjusted in such manner as the Commissioners concerned may consider to be just and reasonable.
- (7) So far as it is necessary for the purposes of this section to determine which of two or more residences is an individual's main residence for any period.—
- (a) the individual may conclude that question by notice in writing to the inspector given within two years from the beginning of that period, or given by the end of the year 1966-67, if that is later, but subject to a right to vary that notice by a further notice in writing to the inspector as respects any period beginning not earlier than two years before the giving of the further notice,
  - (b) subject to paragraph (a) above, the question shall be concluded by the determination of the inspector, which may be as respects either the whole or specified parts of the period of ownership in question,
- and notice of any determination of the inspector under paragraph (b) above shall be given to the individual who may appeal to the General Commissioners or the Special Commissioners against that determination within thirty days of service of the notice.
- (8) In the case of a man and his wife living with him—
- (a) there can only be one residence or main residence for both, so long as living together, and, where a notice under subsection (7) (a) of this section affects both the husband and the wife, it must be made by both, and
  - (b) 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
  - (c) any notice under subsection (7) (b) above which affects a residence owned by the husband and a residence owned by the wife shall be given to each and either may appeal under that subsection.
- (9) This section shall also apply in relation to a gain accruing to a trustee on a disposal of settled property being an asset within subsection (1) of this section where during the period of ownership of the trustee the dwelling-house or part of the dwelling-house mentioned in that subsection has been the only or main residence of a person entitled to occupy it under the terms of the settlement and in this section as so applied—
- (a) references to the individual shall be taken as references to the trustee except in relation to the occupation of the dwelling-house or part of the dwelling-house, and
  - (b) the notice which may be given to the inspector under subsection (7)(a) above shall be a joint notice by the trustee and the person entitled to occupy the dwelling-house or part of the dwelling-house.

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- (10) If as respects 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 is, or has at any time in his period of ownership been, the sole residence of a dependent relative of the individual, provided rent-free and without any other consideration, the individual so claims, such relief shall be given in respect of it and its garden or grounds as would be given under this section, 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 this section apart from this subsection:

Provided that—

- (a) not more than one dwelling-house (or part of a dwellinghouse) may qualify for relief as being the residence of a dependent relative of the claimant at any one time nor, in the case of a man and his wife living with him, as being the residence of a dependent relative of the claimant or of the claimant's husband or wife at any one time, and
- (b) the inspector, before allowing a claim may require the claimant to show that the giving of the relief claimed will not under proviso (a) above preclude the giving of relief to the claimant's wife or husband or that a claim to any such relief has been relinquished.

In this subsection " dependent relative " means, in relation to an individual, a relative of the individual, or of his or her wife or husband, who is incapacitated by old age or infirmity from maintaining himself, or the mother of the individual or of his or her wife or husband, if the mother is widowed, or living apart from her husband, or, in consequence of dissolution or annulment of marriage, a single woman.

- (11) This section shall not apply in relation to a gain unless the acquisition of, or of the interest in, the dwelling-house or the part of a dwelling-house was made for the purpose of residing in it and not 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.
- (12) Apportionments of consideration shall be made wherever required by this section and, in particular, where a person disposes of a dwelling-house only part of which is his only or main residence.
- (13) In this section " the period of ownership "—
- (a) 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 Schedule 6 to this Act is allowable as a deduction in computing under that Schedule the amount of the gain to which this section applies, and
  - (b) for the purposes of subsections (2), (3) and (4) of this section, shall not include any period before 6th April 1965.

### **30 Chattels sold for £1,000 or less.**

- (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 one thousand pounds.

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- (2) The amount of tax (whether capital gains tax or corporation tax) chargeable in respect of a gain accruing on a disposal of an asset which is tangible movable property for a consideration the amount or value of which exceeds one thousand pounds shall not exceed half the difference between the amount of that consideration and one thousand pounds.

For the purposes of this subsection the capital gains tax or corporation tax chargeable in respect of the gain shall be the amount of tax which would not have been chargeable but for that gain.

- (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 Part of this Act the amount of a loss accruing on the disposal of tangible movable property the consideration for the disposal shall, if less than one thousand pounds, be deemed to be one thousand pounds and the losses which are allowable losses shall be restricted accordingly.

- (4) If two 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, in the terms of paragraph 21 of Schedule 7 to this Act, connected persons,

whether on the same or different occasions, the two or more transactions shall be treated as a single transaction disposing of a single asset, but with any necessary apportionments of the reductions in tax, and in allowable losses, under subsections (2) and (3) of this section; and this subsection shall also apply where the assets, or some of the assets, are disposed of on different occasions, and one of them falls after 11th November 1964 but before 7th April 1965 but not so as to make any gain accruing on a disposal before 7th April 1965 a chargeable gain.

- (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) of this section 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 one thousand pounds, the limitation on the amount of tax in subsection (2) of this section shall be to half the difference between that sum and one thousand pounds multiplied by the fraction equal to the actual consideration divided by the said sum, and
  - (c) where that sum is less than one thousand pounds any loss shall be restricted under subsection (3) of this section by deeming the consideration to be the actual consideration plus the said fraction of the difference between the said sum and one thousand pounds.

- (6) This section shall not apply—
- (a) in relation to a disposal of commodities of any description by a person dealing on a terminal market or dealing with or through a person ordinarily engaged in dealing on a terminal market, or
  - (b) in relation to a disposal of currency of any description.

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### **31 Works of art, etc.**

- (1) A gain accruing on the disposal of an asset by way of gift, or accruing on a disposal on death of an asset bequeathed by the deceased, shall not be a chargeable gain if under section 15(2) of the Finance Act 1894 (gifts and bequests for national purposes, etc.) the Treasury remit estate duty by reference to the gift or bequest or, where (as in the case of a gift or in the case of an asset exempt from estate duty) remission under that section would have no effect for the purposes of estate duty, if the Treasury determine that the gift or bequest qualifies for relief under the said section 15(2).
- (2) A concession shall be given under this section in respect of the disposal of an asset on death if by virtue of section 40 of the Finance Act 1930 (which as amended by section 48 of the Finance Act 1950 exempts from estate duty objects of national, scientific, historic or artistic interest) the asset is exempt from estate duty chargeable by reference to that death, and a claim for exemption under that section may be made notwithstanding that, because the asset is exempt from estate duty or for any other reason, the allowance of the claim has no effect for the purposes of estate duty.
- (3) A concession shall be given under this section in respect of the disposal of an asset which is an object to which the said section 40 applies, 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 25(3) or section 25(4) of this Act, the trustee is deemed to dispose and immediately re-acquire, settled property,if an undertaking in the terms of section 48(1) of the Finance Act 1950 (under which the exempted objects must remain in the United Kingdom and reasonable steps taken for their preservation) is given by such person as the Treasury think appropriate in the circumstances of the case.
- (4) The concession under subsection (2) or subsection (3) of this section shall be that both the person making the disposal and the person acquiring the asset on that disposal shall be treated for all the purposes of this Part of this Act as if the asset was acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.
- (5) If there is a sale of the asset in relation to which section 40(2) of the Finance Act 1930 (under which the exemption is withdrawn if the exempted asset is sold otherwise than to certain national institutions or for certain other specified purposes) applies, or in relation to which it would have applied assuming that an undertaking given in respect of the asset under the said section 48(1) or subsection (3) of this section had been given for the purposes of relief from estate duty, as well as for the purposes of relief from tax on chargeable gains, or if the Treasury are satisfied that at any time during the period for which an undertaking under either enactment was given it has not been observed in a material respect, the person selling the asset or, as the case may be, the owner of the asset, shall be treated for the purposes of this Part 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) A gain shall not be a chargeable gain if accruing on the disposal of an asset by way of a sale to which the said section 40(2) would have applied (or would have applied on the assumptions in the last foregoing subsection), but for the proviso to that subsection, or but for express exception in any enactment amending the said section 40(2), including

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section 30(3) of the Finance Act 1953 and section 34(1) of the Finance Act 1956 (acceptance of objects in satisfaction of death duties).

- (7) The period for which an undertaking under subsection (3) of this section is given shall be until the asset again passes on a death or is disposed of, whether by way of sale or gift or otherwise (but without regard to any occasion on which, under this Part of this Act, assets are deemed to be disposed of), and any undertaking given after the passing of this Act under section 48(1) of the Finance Act 1950 shall be for the like period, and the reference in that subsection to the object's being sold shall be construed accordingly; and if assets subject to any such undertaking under the said section 48(1) or subsection (3) of this section are disposed of (construing references to disposal as above) otherwise than on sale, and without any such undertaking being given in replacement, section 40(2) of the Finance Act 1930 and subsection (5) of this section shall apply as if the assets had been then sold to an individual.
- (8) If in pursuance of subsection (5) of this section a person is treated as having on any occasion sold an asset and estate duty becomes payable on the same occasion then in determining the value of the asset for the purposes of the estate duty allowance shall be made for the capital gains tax chargeable on any chargeable gain accruing on that occasion.
- (9) This section, without subsection (8), shall apply in relation to estate duty leviable under the law of Northern Ireland as it applies in relation to estate duty leviable under the law of Great Britain with the substitution for the estate duty enactments mentioned in this section of the corresponding enactments forming part of the law of Northern Ireland, and subject to any other necessary modifications.

### **32 Assets given, devised or bequeathed in connexion with preservation of land for public benefit.**

- (1) A gain accruing on the disposal of an asset by way of gift, or accruing on a disposal on death of an asset devised or bequeathed by the deceased, shall not be a chargeable gain if under section 40 of the Finance Act 1931 (which, as amended by section 27 of the Finance Act 1936, section 31 of the Finance Act 1937, section 31 of the Finance Act 1949, section 33 of the Finance Act 1951 and section 54 of the Finance Act 1963, affords relief from estate duty in the case of land given to the National Trust or for certain other public purposes)—
- (a) the asset is exempt from estate duty which is or might have been leviable by reference to the gift, devise or bequest, or
  - (b) the Treasury remit estate duty so leviable or where (as in the case of a gift or in the case of an asset exempt from estate duty) remission under that section would have no effect for the purposes of estate duty, if the Treasury determine that the gift, devise or bequest qualifies for relief under that section.
- (2) A gain accruing—
- (a) on a disposal of assets forming part of property deemed under this Part of this Act to be effected by a deceased person on his death, or
  - (b) on a disposal of assets forming part of settled property deemed to be effected in accordance with section 25(3) of this Act in consequence of the termination of a life interest by death,

shall not be a chargeable gain if and to the extent that under section 31(3) of the Finance Act 1937 (which, as amended by section 31 of the Finance Act 1949, section 33 of the Finance Act 1951 and section 54 of the Finance Act 1963, affords relief from estate



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duty in respect of settled property to which the National Trust or some other public body is entitled subject to one or more life interests) exemption is to be granted as to the estate duty (if any) leviable on that death in respect of those assets.

- (3) This section shall apply in relation to estate duty leviable under the law of Northern Ireland as it applies to estate duty leviable under the law of Great Britain with the substitution for the estate duty enactments mentioned in this section of the corresponding enactments forming part of the law of Northern Ireland and subject to any other necessary modifications.

### **33 Replacement of business assets.**

- (1) If the consideration which a person carrying on a trade obtains for the disposal of, or of his interest in, assets (in this section referred to as " the old assets") used, and used only, for the purposes of the trade throughout the period of ownership is applied by him in acquiring other assets, or an interest in other assets (in this section referred to as " the new assets ") which on the acquisition are taken into use, and used only, for the purposes of the trade, and the old assets and new assets are within one, and the same one, of the classes of assets listed in this section, then the person carrying on the trade shall, on making a claim as respects the consideration which has been so applied, be treated for the purposes of this Part of this Act—

- (a) as if the consideration for the disposal of, or of the interest in, the old assets were (if otherwise of a greater amount or value) of such amount as would secure that on the disposal neither a loss nor a gain accrues to him, and
- (b) as if the amount or value of the consideration for the acquisition of, or of the interest in, the new assets were reduced by the excess of the amount or value of the actual consideration for the disposal of, or of the interest in, the old assets over the amount of the consideration which he is treated as receiving under paragraph (a) above,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Part of this Act of the other party to the transaction involving the old assets or of the other party to the transaction involving the new assets.

- (2) Subsection (1) of this section shall not apply if part only of the amount or value of the consideration for the disposal of, or of the interest in, the old assets is applied as described in that subsection but if all of the amount or value of the consideration except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of, or of the interest in, the old assets is so applied, then the person carrying on the trade, on making a claim as respects the consideration which has been so applied, shall be treated for the purposes of this Part of this Act—

- (a) as if the amount of the gain so accruing were reduced to the amount of the said part (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, or of the interest in, the new assets were reduced by the amount by which the gain is reduced under paragraph (a) of this subsection,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Part of this Act of the other party to the transaction involving the old assets or of the other party to the transaction involving the new assets.

- (3) This section shall only apply if the acquisition of, or of the interest in, the new assets takes place, or an unconditional contract for the acquisition is entered into, in the

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period beginning twelve months before and ending twelve months after the disposal of, or of the interest in, the old assets, or at such earlier or later time as the Board may by notice in writing allow :

Provided that, where an unconditional contract for the acquisition is so entered into, this section may be applied on a provisional basis without waiting to ascertain whether the new assets, or the interest in the new assets, is acquired in pursuance of the contract, and, when that fact is ascertained, all necessary adjustments shall be made by making assessments or by repayment or discharge of tax, and shall be so made notwithstanding any limitation in this Act on the time within which assessments may be made.

- (4) If two or more persons are carrying on a trade in partnership, this section shall not apply in relation to any one of them unless-he is, under this Part of this Act, to be treated both as making a disposal of a share in, or in the interest in, the old assets, and as acquiring a share in, or in the interest in, the new assets ; and if those shares are different, that partner's share shall be taken for the purpose of this section to be the smaller share.
- (5) This section shall not apply unless the acquisition of, or of the interest in, the new assets was made for the purpose of their use in the trade, and not wholly or partly for the purpose of realising a gain from the disposal of, or of the interest in, the new assets.

- (6) The classes of assets for the purposes of this section are as follows.

Class 1. Assets within the heads A and B below

- A. Except where the trade is a trade of dealing in or developing land, or of providing services for the occupier of land in which the person carrying on the trade has an estate or interest—
- (a) any building or part of a building and any permanent or semi-permanent structure in the nature of a building, occupied (as well as used) only for the purposes of the trade, and
  - (b) any land occupied (as well as used) only for the purposes of the trade.
- B. Fixed plant or machinery which does not form part of a building or of a permanent or semi-permanent structure in the nature of a building.

Class 2

Ships.

Class 3

Aircraft.

Class 4

Goodwill.

- (7) If, over the period of ownership or any substantial part of the period of ownership, part of a building or structure is, and part is not, used for the purposes of a trade, this section shall apply as if the part so used, with any land occupied for purposes ancillary to the occupation and use of that part of the building or structure, were a separate asset, and subject to any necessary apportionments of consideration for an acquisition or disposal of, or of an interest in, the building or structure and other land.
- (8) If the old assets were not used for the purposes of the trade throughout the period of ownership this section shall apply as if a part of the asset representing its use for the purposes of the trade having regard to the time and extent to which it was, and was not, used for those purposes, were a separate asset which had been wholly used for the purposes of the trade, and this subsection shall apply in relation to that part subject

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to any necessary apportionment of consideration for an acquisition or disposal of, or of the interest in, the asset.

- (9) This section shall apply in relation to a person who, either successively or at the same time, carries on two trades which are in different localities, but which are concerned with goods or services of the same kind, as if, in relation to old assets used for the purposes of the one trade and new assets used for the purposes of the other trade, the two trades were the same trade.
- (10) This section shall apply with the necessary modifications—
- (a) in relation to the discharge of the functions of a public authority,
  - (b) in relation to the occupation of woodlands where the woodlands are managed by the occupier on a commercial basis and with a view to the realisation of profits, and
  - (c) in relation to a profession, vocation, office or employment,
- as it applies in relation to a trade, and in this section the expressions "trade", "profession", "vocation", "office" and "employment" have the same meanings as in the Income Tax Acts, but not so as to apply the provisions of the Income Tax Acts as to the circumstances in which, on a change in the persons carrying on a trade, a trade is to be regarded as discontinued, or as set up and commenced.
- (11) The provisions of this Part 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.
- (12) Without prejudice to the provisions of this Part of this Act providing generally for apportionments, where consideration is given for the acquisition or disposal of assets some or part of which are assets in relation to which a claim under subsection (1) or subsection (2) of this section applies, and some or part of which are not, the consideration shall be apportioned in such manner as is just and reasonable.

### **34 Transfer of business on retirement.**

- (1) If an individual who has attained the age of sixty years—
- (a) disposes by way of sale or gift of the whole or part of a business which he has owned throughout the period of ten years ending with the disposal, or
  - (b) disposes by way of sale or gift of shares or securities of a company which has been a trading company and his family company during the period of ten years ending with the disposal, and of which he has been a full time working director throughout that period,
- then relief shall be given under this section in respect of gains accruing to him on the disposal and the amount available for that relief shall be—
- (i) if he has attained the age of sixty-five years, ten thousand pounds,
  - (ii) if he has not attained the age of sixty-five years, two thousand pounds for every year by which his age exceeds sixty, plus, for any odd part of a year, a corresponding part of two thousand pounds.
- (2) Where subsection (1)(a) above applies the gains accruing to the individual on the disposal of chargeable business assets comprised in the disposal by way of sale or gift shall be aggregated, and only so much of that aggregate as exceeds the amount available for relief under this section shall be chargeable gains (but not so as to affect liability in respect of gains accruing on the disposal of assets other than chargeable business assets).

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- (3) Where subsection (1)(b) above applies—
- (a) the gains which accrue to the individual on the disposal of the shares or securities shall be aggregated, and
  - (b) of a proportion of that aggregate sum which is equal to the proportion which the part of the value of the company's assets (including cash) at the time of the disposal which is attributable to the value of the company's chargeable business assets bears to the whole of that value, only so much as exceeds the amount available for relief under this section shall constitute chargeable gains (but not so as to affect liability in respect of gains representing the balance of the said aggregate sum).
- (4) So far as the amount available for relief under subsection (1) above is applied in giving relief to an individual as respects a disposal within that subsection it shall not be applied in giving relief to that individual as respects any other disposal (and the relief shall be applied in the order in which any disposals take place), and—
- (a) if the total amount of relief given to an individual under this section exceeds five thousand pounds section 24(2) of this Act shall apply on the death of the individual as if the five thousand pounds there mentioned were reduced by the amount of the excess, and
  - (b) if the total amount of relief given to an individual under this section is ten thousand pounds, no relief shall be given under the said section 24(2) on the death of that individual.
- (5) In arriving at the aggregate under subsection (2) or subsection (3) above—
- (a) the respective amounts of the gains shall be computed in accordance with the provisions of this Act (other than this section) fixing the amount of chargeable gains, and
  - (b) any allowable loss which accrues on the disposal shall be deducted, and the provisions of this section shall not affect the computation of the amount of any allowable loss.
- (6) In this section—
- " chargeable business asset " means an asset (including goodwill but not including shares or securities or other assets held as investments, which is, or is an interest in, an asset used for the purposes of a trade, profession, vocation, office or employment carried on by the individual, or as the case may be by the individual's family company, other than an asset on the disposal of which no chargeable gain accrues or (where the disposal is of shares or securities in the family company) on the disposal of which no chargeable gain would accrue if the family company disposed of the asset at the time of the disposal of the shares or securities;
- " family company " means, in relation to an individual, a company the voting rights-in which are—
- (a) as to not less than twenty-five per cent., exercisable by the individual, or
  - (b) as to not less than seventy-five per cent., exercisable by the individual or a member of his family, and, as to not less than ten per cent., exercisable by the individual himself, and
- " family " means, in relation to an individual, the husband or wife of the individual, and a relative of the individual or the individual's husband or wife, and " relative " means brother, sister, ancestor or lineal descendant;

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" full time working director " means a director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity;

" trade ", " profession ", " vocation ", " office " and " employment " have the same meanings as in the Income Tax Acts;

" trading company " has the meaning given by paragraph 8 of Schedule 18 to this Act,

and in this section references to the disposal of the whole or part of a business include references to the disposal of the whole or part of the assets provided or held for the purposes of an office or" employment by the person exercising that office or employment.

### **35 Exemption for charities and other miscellaneous exemptions.**

(1) Subject to subsection (2) 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 re-acquired, 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, notwithstanding the provisions of this Act limiting the time for making assessments, an assessment to capital gains tax chargeable by virtue of paragraph (b) above may be made at any time not more than three years after the end of the year of assessment in which the property ceases to be subject to charitable trusts.

(3) In section 461 of the Income Tax Act 1952 and section 73(3) of the Finance Act 1960 (diplomatic privileges) references to income tax shall include references to capital gains tax, and a gain shall not be a chargeable gain if accruing to a consular officer or employee of any foreign state to which section 24 of the Finance Act 1954 for the time being applies on the disposal of assets which at the time of the disposal were situated outside the United Kingdom.

(4) Gains shall not be chargeable gains if accruing on the disposal of stock to which subsection (1) or subsection (2) of section 119 of the Income Tax Act 1952 (stock in the books of the Bank of England held on behalf of the Crown or by the National Debt Commissioners) applies.

(5) A gain shall not be a chargeable gain if accruing on the disposal by the trustees of any settled property held on trusts to which section 459 of the Income Tax Act 1952 (funds for reducing the national debt) applies.

### **36 Superannuation funds.**

(1) A gain shall not be a chargeable gain if accruing to a person from his disposal of investments held by him as part of a fund approved under section 379 of the Income Tax Act 1952 (approved superannuation funds) but so that where part only of a fund is approved under that section the gain shall be exempt from being a chargeable gain

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to the same extent only as income derived from the assets would be exempt under that section.

- (2) A gain shall not be a chargeable gain if accruing to a person from his acquisition and disposal of assets held by him as part of a fund of which income is exempt from tax under any of the following enactments (which relate to superannuation and similar funds), that is to say.—
- (a) in the Income Tax Act 1952 sections 381, 382 and 385 ;
  - (b) in the Finance Act 1956 section 22(5) and section 40(3) ;
  - (c) in the Finance Act 1961 section 21 ;
  - (d) section 4(5) of the Ministerial Salaries and Pensions Act 1965.

### **37 Unit trusts and investment trusts.**

- (1) If in accordance with section 67 of this Act the total net gains of a unit trust or investment trust for an accounting period are apportioned to shares in the unit trust or investment trust the amount so apportioned to any shares shall be treated for the purposes of this Part of this Act as if it were expenditure allowable under paragraph 4 of Schedule 6 to this Act and incurred by the person holding the shares at the time when the amount was apportioned to those shares.
- (2) For the purposes of this section and the said section 67 " investment trust " means, as respects any accounting period, a company which is not a close company as defined in Schedule 18 to this Act and which is approved for the purposes of this section for that accounting period by the Board, and the Board shall not approve any company unless it is shown to their satisfaction—
- (a) that the company's income is derived wholly or mainly from shares or securities; and
  - (b) subject to subsection (3) of this section that no holding in a company, other than an investment trust or a company which would qualify as an investment trust but for paragraph (c) of this subsection, represents more than fifteen per cent. by value of the investing company's investments, and
  - (c) that the shares or securities of the company, or a class of them, are quoted on a recognised stock exchange in the United Kingdom, and
  - (d) that the distribution as dividend of surpluses arising from the realisation of investments is prohibited by the company's memorandum or articles of association, and
  - (e) that the company does not retain in respect of any accounting period more than fifteen per cent. of the income it derives from shares and securities.
- (3) Subsection (2)(b) above shall not apply—
- (a) to a holding in a company acquired before 6th April 1965 which on that date represented not more than twenty-five per cent. by value of the investing company's investments, or
  - (b) to a holding in a company acquired on or after that date which, when it was acquired, represented not more than fifteen per cent. by value of the investing company's investments,
- so long as no addition is made to the holding.
- (4) For the purposes of subsection (3) above—
- (a) " holding " means the shares or securities (whether of one class or more than one class) held in any one company, and

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- (b) an addition is made to a holding whenever the investing company acquires shares or securities of that one company, otherwise than by being allotted shares or securities without becoming liable to give any consideration, and if an addition is made to a holding that holding is acquired when the addition, or the latest addition, is made to the holding, and
- (c) where in connection with a scheme of reconstruction or amalgamation, a company issues shares or securities to persons holding shares or securities in the second company in respect of and in proportion to (or as nearly as may be in proportion to) their holdings in the second company, without those persons becoming liable to give any consideration, a holding of the shares or securities in the second company and a corresponding holding of the shares or securities so issued shall be regarded as the same holding,

and in subsection (2)(c) above " recognised stock exchange in the United Kingdom " has the same meaning as in the Prevention of Fraud (Investments) Act 1958 except that it includes the Belfast Stock Exchange.

### **38 Unit trusts for exempt unit holders.**

- (1) If throughout a year of assessment all the issued units in a unit trust scheme as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940 are assets such that any gain accruing if they were disposed of by the unit holder would be wholly exempt from capital gains tax or corporation tax (otherwise than by reason of residence) gains accruing to the unit trust scheme in that year of assessment shall not be chargeable gains.
- (2) If throughout a year of assessment all the issued units in a unit trust scheme as so defined constitute investments to which section 36(1) of this Act applies, each being an investment such that any gain accruing if it were disposed of by the unit holder would either be wholly exempt from capital gains tax or corporation tax, or be so exempt as to not less than eighty-five per cent., then of all the gains accruing to the unit trust scheme in that year of assessment one-tenth (that is one-tenth of what would apart from this subsection be chargeable gains) shall be chargeable gains; and section 37 of this Act, with the provisions of section 67 applying for the purposes of the said section 37, shall apply in relation to chargeable gains accruing to the unit trust scheme in that year of assessment (as reduced under this subsection) where the unit trust scheme is not within section 67(1) of this Act, as well as where it is.

### **39 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 country outside the United Kingdom in sections 347 and 348 of the Income Tax Act 1952 (double taxation relief and unilateral relief), with Schedules 16 and 17 to that Act, 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 country outside the United Kingdom.
- (2) Any arrangements set out in an order made under the said section 347 either before the passing of this Act, or, in the case of an order of which a draft was laid before the House of Commons before the passing of this Act, made after the passing of this Act,

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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 country outside the United Kingdom may be brought into account under the said provisions of the Income Tax Act 1952 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 provisions of the Income Tax Act 1952 as they apply apart from this section.
- (4) Section 353 of the Income Tax Act 1952 (disclosure of information for purposes of double taxation) shall apply in relation to capital gains tax as it applies in relation to income tax.

#### **40 Relief in respect of delayed remittances of gains.**

- (1) A person charged or chargeable for any year of assessment in respect of chargeable gains accruing to him from the disposal of assets situated outside the United Kingdom may claim that the following provisions of this section shall apply, on showing that the following conditions are satisfied, that is—
  - (a) that he was unable to transfer those gains to the United Kingdom, and
  - (b) that that inability was due to the laws of the territory where the income arose, 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 his part.
- (2) If he so claims then for the purposes of capital gains tax—
  - (a) there shall be deducted from the amounts on which he is assessed to capital gains tax for the year in which the chargeable gain accrued to the claimant the amount as respects which the conditions in paragraphs (a), (b) and (c) above are satisfied, so far as applicable, 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 said conditions cease to be satisfied.
- (3) No claim under this section shall be made in respect of any chargeable gain more than six years after the end of the year of assessment in which that gain accrues.
- (4) The personal representatives of a deceased person may make any claim which he might have made under this section if he had not died.