



Finance Act 1965

1965 CHAPTER 25

PART III

CAPITAL GAINS.

Capital gains tax.

21 Capital gains accruing to an individual: alternative charge to tax.

- (1) If this section would result in an individual being chargeable to a reduced amount of capital gains tax for any year of assessment in any part of which he was resident in the United Kingdom, or in which he was ordinarily resident in the United Kingdom, the amount of capital gains tax to which he is chargeable for that year of assessment shall, instead of being the amount arrived at under the last foregoing section, be calculated as an amount equal to the amount of income tax (including surtax) to which he would be chargeable if, in addition to any other liability to income tax, he was chargeable to income tax for that year under Case VI of Schedule D—
 - (a) where the amount on which he would have been chargeable to capital gains tax for that year under the last foregoing section does not exceed five thousand pounds, on a sum equal to one-half of that amount, and
 - (b) where that amount exceeds five thousand pounds, on a sum equal to two thousand five hundred pounds plus the excess of that amount over five thousand pounds.
- (2) That amount of income tax (including surtax) shall be arrived at on the assumption that the income to which the individual would be so chargeable to income tax—
 - (a) is not available for set off under any of the provisions of the Income Tax Acts against any loss, or against any payments which may be made out of profits or gains brought into charge for tax, and is not available for the purpose of any other relief under the Income Tax Acts, other than the personal reliefs, and accordingly it shall be assumed that all such provisions of the Income Tax Acts are applied without regard to the income so chargeable under Case VI of Schedule D,

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- (b) does not constitute earned income, as being income within section 525(1)(W) of the Income Tax Act 1952 (income from property attached to or forming part of the emoluments of an office or employment) or within any other provision of the Income Tax Acts,
- (c) is to be treated, for the purpose of comparing in accordance with subsection (1) of this section the amount of income tax which would be chargeable under this section with the alternative charge to capital gains tax, as the highest part of the individual's income for the year,

and paragraph (c) of this subsection shall have effect notwithstanding any provision of the Income Tax Acts directing other income to be treated as the highest part of the individual's total income.

In this subsection " the personal reliefs " means the reliefs under Part VIII of the Income Tax Act 1952, as applied for the purposes of income tax at the standard rate or surtax but excluding relief under sections 219 and 225 (premiums on life assurance policies).

- (3) The provisions of this section shall not affect the provisions of the last foregoing section as to the circumstances in which an allowable loss accruing in one year may be deducted from chargeable gains accruing in any other year.
- (4) If capital gains tax is chargeable under the last foregoing section in respect of chargeable gains accruing to a married woman who in the year of assessment is a married woman living with her husband, then, whether or not the husband is or would be chargeable to capital gains tax for that year of assessment under the last foregoing section, and whether or not the married woman is separately assessed to income tax at the standard rate or to surtax—
 - (a) in making the comparison under subsection (1) of this section account shall be taken of income tax chargeable on the husband, as well as of income tax chargeable on the woman, and
 - (b) the reference to the individual's income in subsection (2)(c) of this section shall be a reference to the husband's income (including income of his wife which under the Income Tax Acts is deemed to be his income), and
 - (c) if both the married woman and her husband are chargeable to capital gains tax for that year of assessment the comparison under subsection (1) of this section shall be between the sum of the capital gains tax so chargeable on them under the last foregoing section and the amount to which the husband would be chargeable to income tax (including surtax) if, in addition to any other liability to income tax, he was chargeable to income tax for that year of assessment under Case VI of Schedule D—
 - (i) where the aggregate amount to which he and his wife would have been chargeable to capital gains tax for that year under the last foregoing section does not exceed five thousand pounds, on a sum equal to one-half of that amount, and
 - (ii) where that aggregate amount exceeds five thousand pounds, on a sum equal to two thousand five hundred pounds plus the excess of that aggregate amount over five thousand pounds,

and

 - (d) account shall be taken of the provisions of subsection (5) of the last foregoing section with any necessary adjustment where an application is made under the proviso to that subsection,

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and any reduction in capital gains tax effected by paragraph (c) above shall be apportioned to the husband and wife in proportion to the respective amounts on which they would, under the last foregoing section, be chargeable to capital gains tax for the year of assessment.

- (5) Any chargeable gain which accrued to an individual in a year of assessment on the disposal of an asset which the individual acquired (otherwise than as legatee) not more than two years before the disposal from a person who, in the terms of paragraph 21 of Schedule 7 to this Act, was a person connected with the individual shall be left out of account for the purposes of this section, and—
- (a) capital gains tax shall be charged on the amount of that chargeable gain in accordance with the last foregoing section,
 - (b) no loss shall be deductible under subsection (4) of the last foregoing section from that amount if relief is given under this section in respect of any other chargeable gain which accrued to the individual or, in accordance with subsection (4) of this section, to the husband or wife of the individual, in the said year of assessment.