



Finance Act 1965

1965 CHAPTER 25

PART III

CAPITAL GAINS.

Supplemental.

45 Interpretation and other supplemental provisions.

(1) In this Part of this Act, unless the context otherwise requires.—

" the Board " means the Commissioners of Inland Revenue ;

" branch or agency " means any factorship, agency, receivership, branch or management, but does not include any person within the exemptions in section 373 of the Income Tax Act 1952 (general agents and brokers), and

" principal " means, in relation to the branch or agency, the person, by whatever name called, managing or in charge of the branch or agency ;

" allowable loss " has the meaning given by section 23 of this Act;

" chargeable gain " has the meaning given by section 22(10) of this Act;

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

" company " includes any body corporate or unincorporated association but does not include a partnership ;

" control " shall be construed in accordance with paragraph 3 of Schedule 18 to this Act;

" lease "—

(a) in relation to land, includes an underlease, sublease or any tenancy or licence, and any agreement for a lease, underlease, sublease or tenancy or licence and, in the case of land outside the United Kingdom, any interest corresponding to a lease as so defined,

(b) in relation to any description of property other than land, means any kind of agreement or arrangement under which payments are made for the

Status: This is the original version (as it was originally enacted).

use of, or otherwise in respect of, property, and " lessor ", " lessee " and " rent " shall be construed accordingly.

" legatee " includes any person taking under a testamentary disposition or on an intestacy or partial intestacy, whether he takes beneficially or as trustee, and a donatio mortis causa shall be treated as a testamentary disposition and shall not be treated as a gift;

" part disposal " has the meaning given by section 22(2) of this Act;

" personal representatives " has the meaning assigned to it by section 423(4) of the Income Tax Act 1952 ;

" settled property " means, subject to subsection (8) below, any property held in trust other than property to which section 22(5) of this Act applies ;

" shares " includes stock, and 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;

" trade " has the same meaning as in the Income Tax Acts ;

" trading stock " has the meaning given by section 143(4) of the Income Tax Act 1952 as extended by section 35(5) of the Finance Act 1960 ;

" wasting asset " has the meaning given by paragraph 9 of Schedule 6 to this Act and paragraph 1 of Schedule 8 to this Act;

" 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 "1965-66" and so on indicate years of assessment as in the Income Tax Acts.

- (2) References in this Part of this Act to Part X of the Income Tax Act 1952 shall be construed as if they were references contained in the Income Tax Acts.
- (3) References in this Part of this Act to a married woman living with her husband should be construed in accordance with section 361(1)(2) of the Income Tax Act 1952.
- (4) A hire-purchase or other transaction under which the use and enjoyment of an asset is obtained by a person for a period at the end of which the property in the asset will or may pass to that person shall be treated for the purposes of this Part of this Act, both in relation to that person and in relation to the person from whom he obtains the use and enjoyment of the asset, as if it amounted to an entire disposal of the asset to that person at the beginning of the period for which he obtains the use and enjoyment of the asset, but subject to such adjustments of tax, whether by way of repayment or discharge of tax or otherwise, as may be required where the period for which that person has the use and enjoyment of the asset terminates without the property in the asset passing to him.
- (5) In the case of a disposal within paragraph (a), (b) (c) or (d) of section 22(3) of this Act the time of the disposal shall be the time when the capital sum is received as described in that subsection.
- (6) For the purposes of section 20(7) of this Act, there shall be treated as received in the United Kingdom in respect of any gain all amounts paid, used or enjoyed in or in any manner or form transmitted or brought to the United Kingdom and section 24 of the Finance Act 1953 (under which income applied outside the United Kingdom in payment of debts is, in certain cases, treated as received in the United Kingdom) shall apply as it would apply for purposes of section 132(3) of the Income Tax Act 1952 if the gain were income arising from possessions out of the United Kingdom.

- (7) Where two or more persons carry on a trade or business in partnership—
- (a) tax in respect of chargeable gains accruing to them on the disposal of any partnership assets shall, in Scotland as well as elsewhere in the United Kingdom, be assessed and charged on them separately, and
 - (b) any partnership dealings shall be treated as dealings by the partners and not by the firm as such, and
 - (c) section 147 of the Income Tax Act 1952 (residence of partnerships) shall apply in relation to tax chargeable in pursuance of this Part of this Act as it applies in relation to income tax.
- (8) This Part of this Act shall apply in relation to any 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) as if the scheme were a company, as if the rights of the unit holders were shares in the company, and in the case of an authorised unit trust scheme within the meaning of section 71 of the Finance Act 1960 as if the company were resident and ordinarily resident in the United Kingdom.
- (9) Any provision in this Part of this Act introducing the assumption that assets are sold and immediately re-acquired shall not imply that any expenditure is incurred as incidental to the sale or re-acquisition.
- (10) Any reference in any Act passed before this Act and, unless the contrary is expressly provided, in any Act passed with or after this Act, to duties leviable on death shall not include a reference to capital gains tax and references to profits or gains in the Income Tax Acts shall not include references to chargeable gains.
- (11) Section 512 of the Income Tax Act 1952 (which overrides exemptions under local Acts and other special exemptions) shall apply in relation to tax chargeable in pursuance of this Part of this Act as it applies in relation to income tax.
- (12) Schedule 10 to this Act (administration) shall have effect for the purposes of this Act.