



Finance Act 1972

1972 CHAPTER 41

PART VI

TAX ON CAPITAL GAINS AND ESTATE DUTY

112 Reduction of tax liability on disposals of shares in unit trusts, investment trusts and funds in court

- (1) Subject to subsections (2) and (6) below, this section applies to disposals after 5th April 1972 of—
- (a) shares in authorised unit trusts, in unit trusts to which section 38(2) of the Finance Act 1965 applies, or in investment trusts; and
 - (b) shares in any common investment fund established under section 1 of the Administration of Justice Act 1965.
- (2) Paragraph (a) of subsection (1) above does not apply to any share of a class to which there would not be attributable in a liquidation of the trust the whole or a substantial part—
- (a) of the assets of the trust representing gains on capital; or
 - (b) if those assets would be so attributable to two or more classes of shares, of a proportion of those assets corresponding to the proportion of all the issued shares of those classes represented by the issued shares of the class in question.

Where there are shares on which different amounts have been paid up the proportion mentioned in paragraph (b) above shall be calculated by reference to the amount paid up on the issued share capital of each class of shares.

- (3) Where gains accrue to a person in any year of assessment on any disposals to which this section applies, the capital gains tax to which he is chargeable for that year shall be reduced by a credit equal to whichever of the following amounts is the smallest—
- (a) the amount of that tax ;
 - (b) an amount equal to 15 per cent. of the total chargeable gains accruing to him in that year on disposals to which this section applies ;

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- (c) an amount equal to 15 per cent. of the total amount of chargeable gains accruing to him in that year on which capital gains tax is chargeable (or would have been chargeable apart from section 21 of the Finance Act 1965).
- (4) Subsection (3) above shall have effect in relation to the corporation tax chargeable on a company for an accounting period in which gains accrue to it on any disposals to which this section applies as it has effect in relation to the capital gains tax chargeable on a person other than a company, and shall so have effect as if—
 - (a) references to a year of assessment were references to an accounting period ; and
 - (b) for the total amount of chargeable gains mentioned in paragraph (c) of that subsection there were substituted the amount of gains charged to corporation tax for the accounting period in question increased, where subsection (5) below applies, in accordance with that subsection.

In this subsection " gains charged to corporation tax " means the profits on which corporation tax falls finally to be borne after deducting the income charged to corporation tax as defined in section 85(6) (read with section 110(4)) above except that, in relation to an accounting period for which the company claims a credit for foreign tax, those gains shall be determined in accordance with section 100(5) above.

- (5) In relation to an accounting period for which any reduction falls to be made under section 93 above in the amount to be included in respect of chargeable gains in the company's total profits, the gains mentioned in subsection (4)(b) above shall be increased by multiplying by the inverse of the fraction of that amount remaining after the reduction; and if under subsection (3) or (4) of that section the reduction falls to be made by reference to different portions of that amount, the increase under this subsection shall be made similarly, using the inverse of the fractions of those portions remaining after any reduction.
- (6) Where a person disposes after 5th April 1972 of a share—
 - (a) which at the time of disposal is a qualifying share (that is to say, a share falling within subsection (1)(a) above) but has not at all times while in the ownership of that person been a qualifying share ; or
 - (b) which at the time of disposal is not a qualifying share but has previously while in his ownership been such a share,

this section shall apply to the disposal but for the purposes of subsection (3)(b) above the gain accruing on the disposal shall be treated as reduced in proportion to the time for which the share was in the ownership of that person without being a qualifying share.
- (7) Where under paragraphs 4 to 7 of Schedule 7 to the Finance Act 1965 (exchanges, etc. of shares) the share of which a person disposes falls to be identified with another asset or other assets previously held by him, subsection (6) above shall have effect as if—
 - (a) his period of ownership of the share disposed of included his period of ownership of the other asset or assets; and
 - (b) the share disposed of had or had not been a qualifying share at any time during that additional period according to whether or not the other asset or any of those other assets was a qualifying share at that time.
- (8) Where a person disposes after 5th April 1972 of a share which at the time of disposal is a qualifying share and which he has received on a conversion of—

- (a) a share other than a qualifying share ; or
 - (b) loan stock,
- previously held by him, being a conversion pursuant to rights in that behalf attached to the share or stock previously held, subsections (6) and (7) above shall have effect as if that share or stock had been a qualifying share throughout any time for which the company by which it was issued was a body of the kind mentioned in subsection (1) (a) above.
- (9) Where the gain accruing on a disposal to which this section applies falls to be computed in accordance with paragraph 27(2)(b) of Schedule 6 to the Finance Act 1965 (unquoted securities held before 6th April 1965 which are subsequently converted or exchanged)—
- (a) the period of ownership of the share disposed of shall not be treated under subsection (7)(a) above as having begun before the time mentioned in the said paragraph 27(2)(b); and
 - (b) for the purposes of subsection (3)(b) above the gain shall be taken to be that mentioned in sub-paragraph (ii) of the said paragraph 27(2)(b) reduced, where applicable, in accordance with subsections (6) and (7) above.
- (10) For the purposes of subsections (6) to (8) above no account shall be taken of any period of ownership before 6th April 1965; and nothing in paragraphs 4 to 7 of the said Schedule 7 shall be construed as enabling any asset to be treated as having been a qualifying share at any time when it was not such in fact.
- (11) The following provisions, that is to say—
- (a) section 37(1) of the Finance Act 1965 and that section as applied by section 38(2) of that Act (under which the amount apportioned to a share out of the net gains of a unit trust or investment trust is deductible in computing a gain on a disposal) and section 357 of the Taxes Act (which provides for making the apportionment) ; and
 - (b) section 94(2) of the said Act of 1965 (which makes corresponding provision for common investment funds),
- together with any apportionment already made under those provisions, shall not apply as respects any disposal after 5th April 1972 whether or not a disposal to which this section applies.
- (12) For the purposes of this section loan stock issued by an investment trust before 11th April 1972, being loan stock to which there would be attributable in a liquidation of the trust the whole of the assets of the trust representing gains on capital, shall be treated as shares in the trust falling within subsection (1)(a) above.
- (13) In this section " authorised unit trust" has the meaning given in section 358 of the Taxes Act and, subject to section 93(6) above, "investment trust" has the meaning given in section 359 of that Act.

113 Reduced rate of capital gains tax for unit trusts with exempt unit holders and for funds in court

For the year 1972-73 and subsequent years of assessment the rate of capital gains tax payable on chargeable gains accruing—

- (a) to a unit trust to which section 38(2) of the Finance Act 1965 applies (unit trusts for exempt unit holders);

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(b) to a common investment fund established under section 1 of the Administration of Justice Act 1965,
shall be 15 per cent.

114 Valuation of assets of and rights in unit trusts

- (1) Nothing in any trust deed executed before 1st September 1972 and regulating any such unit trust as is mentioned in section 112(1)(a) above shall preclude the managers of the trust or the trustee, in valuing the assets of the trust at any time during an accounting period, from making a deduction for any tax for which the trust may become liable in respect of its net gains in that period up to that time.

In this subsection " net gains " means the excess, if any, of chargeable gains over the allowable losses deductible from those gains as those gains and losses are computed for the charge to tax on the trust.

- (2) In section 44(4) of, and paragraph 22(1)(b) of Schedule 6 to, the Finance Act 1965 (valuation of rights of unit holders in unit trust scheme the prices of which are published daily by the managers of the scheme) for the words " are published daily " there shall be substituted the words " are published regularly ".

This subsection has effect in relation to disposals after 5th April 1972.

115 Share option schemes (capital gains tax)

Section 22(4) of the Finance Act 1965 (assets deemed acquired and disposed of at market value) shall not apply in calculating, for the purposes of any disposal made after 5th April 1972, the consideration given for the acquisition of shares in pursuance of a share option scheme as defined in Schedule 12 to this Act.

116 Consideration payable by instalments

- (1) In sub-paragraph (1) of paragraph 14 of Schedule 6 to the Finance Act 1965 (consideration payable by instalments) for the words from " the chargeable gain " to the end there shall be substituted the words " then, if the person making the disposal satisfies the Board that he would otherwise suffer undue hardship, the tax on a chargeable gain accruing on the disposal may, at his option, be paid by such instalments as the Board may allow over a period not exceeding eight years and ending not later than the time at which the last of the first-mentioned instalments is payable " ; and sub-paragraphs (2) to (4) of that paragraph and paragraph 5 of Schedule 11 to the Finance Act 1971 (which, in relation to relief under section 57 of that Act, makes provision corresponding to that made by paragraph 14) shall be omitted.
- (2) Subject to subsections (3) and (4) below, this section shall be deemed to have come into force on 11th April 1972.
- (3) Where, under paragraph 14 of Schedule 6 to the Finance Act 1965 as originally enacted, part of a chargeable gain would fall to be regarded as accruing before and part as accruing on or after 11th April 1972, subsection (1) above shall not apply but so much of the gain as would fall to be regarded as accruing after that date shall instead be regarded as accruing on that date; but if the person liable to pay the tax on the gain regarded as so accruing satisfies the Board that he would otherwise suffer undue hardship, the tax may, at his option, be paid by such instalments as the Board may allow.

- (4) Where, under paragraph 5 of Schedule 11 to the Finance Act 1971, part of any consideration for a disposal made before 11th April 1972 would have been deemed, for the purposes of section 57 of that Act, to be a consideration for a disposal made in a year of assessment later than 1971-72 it shall be deemed for those purposes to be a consideration for a disposal made in the year 1972-73.

117 Postponement of payment of tax

In relation to a disposal made or deemed to be made on or after 11th April 1972 the following shall be substituted for paragraph 4 of Schedule 10 to the Finance Act 1965:

- “4
- (1) Where the whole or part of any assets falling within sub-paragraph (2) below is disposed of by way of gift or is under subsection (3) or subsection (4) of section 25 of this Act deemed to be disposed of, the capital gains tax chargeable on a gain accruing on the disposal may, at the option of the person liable to pay it, be paid by eight equal yearly instalments or sixteen half-yearly instalments, but subject to the payment of interest under Part IX (except sections 87 and 88) of the Taxes Management Act 1970.
- (2) The assets referred to in sub-paragraph (1) above are:—
- (a) land or an estate or interest in land;
 - (b) any shares or securities of a company not quoted on a recognised stock exchange in the United Kingdom or elsewhere ; and
 - (c) any assets used exclusively for the purposes of a trade, profession or vocation which, immediately before the disposal, was carried on (whether alone or in partnership) by the person by whom the disposal was made or deemed to be made.
- (3) Where tax is payable by instalments by virtue of this paragraph, the first instalment shall be due at the expiration of twelve months from the time of the disposal and the interest on the unpaid portion of the tax shall be added to each instalment and paid accordingly; but the tax for the time being unpaid, with interest to the date of payment, may be paid at any time, and shall become due and payable forthwith if—
- (a) the disposal was by way of gift to a person connected with the donor or was deemed to be made under subsection (3) or subsection (4) of section 25 of this Act; and
 - (b) the assets are disposed of for valuable consideration under a subsequent disposal (whether or not the subsequent disposal is made by the person who acquired them under the first disposal).”

118 Replacement of business assets

Section 33 of the Finance Act 1965 (replacement of business assets) shall be amended by adding after paragraph (c) of subsection (10) the words “and

- (d) in relation to such of the activities of a body of persons whose activities are carried on otherwise than for profit and are wholly or mainly directed to the protection or promotion of the interests of its members in the carrying on of their trade or profession as are so directed ;”

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119 Gifts to charities

- (1) Subsection (2) of this section shall apply where a disposal of an asset is made, after 21st March 1972, otherwise than under a bargain at arm's length—
 - (a) to a charity ; or
 - (b) to any of the bodies falling within Schedule 25 to this Act.
- (2) Section 22(4) of the Finance Act 1965 (consideration deemed to be equal to market value) and section 31(3) of that Act (concession for gifts of national and other interest) shall not apply; but if the disposal is by way of gift (including a gift in settlement) or for a consideration not exceeding the sums allowable as a deduction under paragraph 4 of Schedule 6 to that Act, then—
 - (a) the disposal and acquisition shall be treated for the purposes of Part III of that Act, but not for the purposes of section 57 of the Finance Act 1971 (exemption or relief for small disposals) as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal; and
 - (b) where, after the disposal, the asset is disposed of by the person who acquired it under the disposal, its acquisition by the person making the earlier disposal shall be treated for the purposes of Part III of the Finance Act 1965 as the acquisition of the person making the later disposal.
- (3) Where, otherwise than on the termination of a life interest (within the meaning of section 25 of the Finance Act 1965) by the death of the person entitled thereto, any assets or parts of any assets forming part of settled property are, under subsection (3) or subsection (4) of that section, deemed to be disposed of and re-acquired by the trustee, and—
 - (a) the person becoming entitled as mentioned in subsection (3) of that section is a charity or a body falling within Schedule 25 to this Act; or
 - (b) any of the assets which, or parts of which, are deemed to be disposed of and re-acquired under subsection (4) of that section are held for the purposes of a charity or a body falling within Schedule 25 to this Act;

then, if no consideration is received by any person for or in connection with any transaction by virtue of which the charity or other body becomes so entitled or the assets are so held, the disposal and re-acquisition of the assets to which the charity or other body becomes so entitled or of the assets or parts of the assets which are held as mentioned in paragraph (b) above shall, notwithstanding those subsections, be treated for the purposes of Part III of that Act as made for such consideration as to secure that neither a gain nor a loss accrues on the disposal.

120 Alteration of amount of estate duty

- (1) In relation to deaths occurring after 21st March 1972 Part I of Schedule 17 to the Finance Act 1969 (amount of duty) and section 16(3) of the Finance Act 1894 (small estates) shall be further amended as follows.
- (2) In Part I of that Schedule the following shall be substituted for the words following " The amount of the estate duty on an estate " —
 - “(a) if the aggregate principal value of all property comprised in the estate does not exceed £15,000, shall be nil;
 - (b) in any other case shall be an amount equal to the aggregate of—
 - (i) 25 per cent. of any amount by which that aggregate principal value exceeds £15,000 but does not exceed £20,000 ; and

- (ii) 30 per cent. of any amount by which that aggregate principal value exceeds £20,000 but does not exceed £30,000 ; and
- (iii) 35 per cent. of any amount by which that aggregate principal value exceeds £30,000 but does not exceed £40,000 ; and
- (iv) 40 per cent. of any amount by which that aggregate principal value exceeds £40,000 but does not exceed £50,000 ; and
- (v) 45 per cent. of any amount by which that aggregate principal value exceeds £50,000 but does not exceed £60,000 ; and
- (vi) 50 per cent. of any amount by which that aggregate principal value exceeds £60,000 but does not exceed £80,000 ; and
- (vii) 55 per cent. of any amount by which that aggregate principal value exceeds £80,000 but does not exceed £100,000 ; and
- (viii) 60 per cent. of any amount by which that aggregate principal value exceeds £100,000 but does not exceed £150,000 ; and
- (ix) 65 per cent. of any amount by which that aggregate principal value exceeds £150,000 but does not exceed £200,000 ; and
- (x) 70 per cent. of any amount by which that aggregate principal value exceeds £200,000 but does not exceed £500,000 ; and
- (xi) 75 per cent. of any amount by which that aggregate principal value exceeds £500,000.”

- (3) In paragraphs (a) and (b) of section 16(3) of the Finance Act 1894 " £15,000 " shall be substituted for " £12,500 ".

121 Estate duty: relief for surviving spouse, charities and certain institutions

- (1) In determining for the purposes of estate duty chargeable on any death occurring after 21st March 1972 the principal value of an estate there shall be disregarded so much thereof as is attributable to property falling within the following paragraphs, but subject to the limits specified therein—
- (a) property given to any of the bodies falling within Schedule 25 to this Act; and
 - (b) property given to charities, up to a limit of £50,000; and
 - (c) property given to or devolving on the deceased's widow or widower, up to a limit of £15,000 ;

but it shall not be so disregarded if the property passes under a gift excepted under Part I of Schedule 26 to this Act.

- (2) Schedule 26 to this Act shall have effect for supplementing this section.