



# Capital Gains Tax Act 1979

## 1979 CHAPTER 14

An Act to consolidate Part III of the Finance Act 1965 with related provisions in that Act and subsequent Acts. [22nd March 1979]

### Editorial Information

- X1** General amendments to Tax Acts, Income Tax Acts, and/or Corporation Tax Acts made by legislation after 1.2.1991 are noted against [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) but not against each Act

### Modifications etc. (not altering text)

- C1** General amendments etc. to Tax Acts (or Income Tax Acts or Corporation Tax Acts as the case may be) made by [Taxes Management Act 1970 \(c. 9, SIF 63:1\)](#), [s. 41A\(7\)](#) (as added by [Finance Act 1990 \(c. 29, SIF 63:1\)](#), [s. 95\(1\)\(2\)](#)), [British Telecommunications Act 1981 \(c. 38, SIF 96\)](#), [s. 82\(2\)\(7\)](#); [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), [s. 72\(3\)](#); [Finance Act 1984 \(c. 43, SIF 63:1\)](#), [ss. 82\(6\), 85\(2\), 89\(1\)\(7\), 96\(1\)\(7\), 98\(7\)](#), [Sch. 9 para. 3\(2\)\(9\)](#), [Sch. 16 paras. 6, 12](#) and [Finance Act 1985 \(c. 54, SIF 63:1\)](#), [ss. 72\(1\), 74\(5\)](#), [Sch. 23 para. 15\(4\)](#), [S.I. 1987/530](#), [regs. 11\(2\), 13\(1\), 14](#), [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [ss. 4, 6, 7, 9, 32, 34, 78, 134, 135, 141, 142, 185, 191, 193, 194, 195, 200, 203, 209, 212, 213, 219, 247, 253, 272, 287, 314, 315, 317, 318, 325, 326, 327, 345, 350, 351, 368, 375, 381, 397, 414, 432, 440, 442, 446, 458, 460, 461, 463, 463\(2\)\(3\)](#) (as added by [Finance Act 1990 \(c. 29, SIF 63:1\)](#), [s. 50\(2\)](#)), [468, 474, 475, 486, 490, 491, 503, 511, 518, 524, 532, 544, 550, 556, 558, 569, 572, 582, 595, 601, 613, 617, 619, 621, 639, 656, 660, 663, 676, 689, 691, 694, 700, 701, 714, 716, 739, 743, 754, 763, 776, 780, 781, 782, 787, 789, 811, 828, 829, 832, 833, 834, 835, 837, 838, 839, 840, 841, 842](#), [Sch. 2 para. 5](#), [Sch. 4 para. 5](#), [Sch. 13 para. 10](#), [Sch. 16 para. 10](#), [Sch. 21 para. 6](#), [Sch. 26 para. 1](#), [Sch. 27 para. 20](#), [Finance Act 1988 \(c. 39, SIF 63:1\)](#), [ss. 66, 127\(1\)\(6\)](#), [Sch. 12 para. 6](#), [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), [ss. 28\(1\), 68\(8\), 74, 82, 83\(5\), 148\(5\), 163\(4\), 164\(2\)](#), [S.I. 1990/627](#) and [Finance Act 1990 \(c. 29, SIF 63:1\)](#), [s. 25\(10\)](#)
- C2** Act applied with modifications by [S.I. 1990/627](#)
- C3** Act modified by [Finance Act 1990 \(c. 29, SIF 63:1\)](#), [2](#), [ss. 33\(1\)\(4\)\(5\), 36\(3\), 37\(3\), 80](#) and [Sch. 12 paras. 3\(1\), 4, 5](#)
- C4** Act amended by [Finance Act 1990 \(c. 29, SIF 63:1\)](#), [s. 80](#), [Sch. 12 para. 2\(1\)](#)
- C5** Act modified (G.B.) by [Ports Act 1991 \(c. 52, SIF 58\)](#), [s. 16\(3\)](#)
- C6** Act applied (G.B.) by [Ports Act 1991 \(c. 52, SIF 58\)](#), [s. 17\(5\)](#)
- C7** Act modified (G.B.) by [Ports Act 1991 \(c. 52, SIF 58\)](#), [s. 18\(2\)\(4\)](#)
- C8** Act: definition of "allowable loss" applied (G.B.) by [Ports Act 1991 \(c. 52, SIF 58\)](#), [s. 18\(8\)](#)

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- Act: definition of "allowable loss" applied by [Ports Act 1991 \(c. 52, SIF 58\)](#), [s. 35\(3\)](#)
- C9** Act modified by [Finance Act 1991 \(c. 31, SIF 63:2\)](#), [ss. 83\(2\)\(9\)](#), [86\(2\)\(4\)](#).
- C10** Act: it is provided that in any enactment including this Act and an enactment contained in subordinate legislation within the meaning of the [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), references to the Official List of The Stock Exchange shall have effect as references to the Official List maintained by the new competent authority for the purposes of Pt. IV of the Act, (2.10.1991) by [S.I. 1991/2000](#), [reg. 4\(5\)](#).

#### Commencement Information

- II** Act partly in force at Royal Assent see [s. 157\(4\)](#); Act wholly in force at 6. 4. 1979 see [s. 156\(1\)\(2\)](#).

## PART I

### GENERAL

#### *Capital gains tax and corporation tax*

#### 1 Taxation of capital gains.

- (1) Tax shall be charged in accordance with this Act in respect of capital gains, that is to say chargeable gains computed in accordance with this Act and accruing to a person on the disposal of assets.
- (2) In the circumstances prescribed by the provisions of Part XI of the [<sup>F1</sup>Taxes Act 1970 and Part VIII of the Taxes Act 1988](taxation of companies and certain other bodies and associations) the tax shall be chargeable in accordance with those provisions, and all the provisions of this Act have effect subject to those provisions.
- (3) Subject to the said provisions, capital gains tax shall be charged for all years of assessment in accordance with the following provisions of this Act.

#### Textual Amendments

- F1** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 para. 32](#)

#### Modifications etc. (not altering text)

- C11** See— [Finance Act 1984 \(c. 43\)](#), [s. 79](#); [Trustee Savings Banks Act 1985 \(c. 58, SIF 110\)](#), [s. 5](#) and [Sch. 2 para. 2\(1\)](#)

#### *Capital gains tax*

#### 2 Persons chargeable.

- (1) Subject to any exceptions provided by this Act, a person shall be chargeable to capital gains tax in respect of chargeable gains accruing to him in a year of assessment during any part of which he is resident in the United Kingdom, or during which he is ordinarily resident in the United Kingdom.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (2) This section is without prejudice to the provisions of section 12 below (non-resident with UK branch or agency), and of section 38 of the <sup>M1</sup>Finance Act 1973 (territorial sea of the United Kingdom).

**Modifications etc. (not altering text)**

- C12** See also [Finance Act 1981 \(c. 35, SIF 63:2\)](#), **s. 80**  
**C13** See— [Finance Act 1980 \(c. 48, SIF 63:1\)](#), **s. 36(3)**; [Finance Act 1981 \(c. 35, SIF 63:2\)](#), **s. 135**; [Finance Act 1982 \(c. 39, SIF 63:2\)](#), **s. 148**; [Finance Act 1985 \(c. 54, SIF 63:2\)](#), **ss. 71, 72** and Sch. 21  
**C14** See— [Finance Act 1973 \(c. 51, SIF 63:1\)](#), **s. 38**; [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 761**

**Marginal Citations**

- M1** [1973 c. 51](#).

**3** <sup>F2</sup> .....

**Textual Amendments**

- F2** [S. 3](#) repealed by [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **s. 148** and Sch. 14 Pt. VII in relation to disposals on or after 6th April 1988

**4 Gains chargeable to tax.**

- (1) Capital gains tax shall be charged on the total amount of chargeable gains accruing to the person chargeable in the year of assessment, after deducting—
- (a) any allowable losses accruing to that person in that year of assessment, and
  - (b) so far as they have not been allowed as a deduction from chargeable gains accruing in any previous year of assessment, any allowable losses accruing to that person in any previous year of assessment (not earlier than the year 1965-66).

[<sup>F3</sup>(2) In the case of a woman who in a year of assessment is a married woman living with her husband any allowable loss which, under subsection (1) above, would be deductible from the chargeable gains accruing in that year of assessment to the one but for an insufficiency of chargeable gains shall, for the purposes of that subsection, be deductible from chargeable gains accruing in that year of assessment to the other: Provided that this subsection shall not apply in relation to losses accruing in a year of assessment to either if, before 6th July in the year next following that year of assessment, an application is made by the man or the wife to the inspector in such form and manner as the Board may prescribe.]

**Textual Amendments**

- F3** [S. 4\(2\)](#) repealed by [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **s. 148** and Sch. 14 Pt. VIII from 1990–91 (and see [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **ss. 98** and 102 for 1988–89 and subsequent years)

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#### **Modifications etc. (not altering text)**

- C15** See— [Development Land Tax Act 1976 \(c. 24\)](#), [s. 34](#) and Sch. 6 Pt. I (which Act was repealed by [Finance Act 1985 \(c. 54, SIF 63:2\)](#), [ss. 93, 98\(6\)](#) and Sch. 27 Pt. X); [Income and Corporation Taxes Act 1988 \(c. 1, SIF, 63:1\)](#), [s. 574\(1\)](#)
- C16** [S. 4\(2\)](#) modified by [S.I. 1991/851](#), reg. 9, [Sch. 2](#).
- C17** [S. 4\(2\)](#) modified (28.3.1992) by [S.I. 1992/511](#), reg. 9, [Sch. 2](#)

## **5 Exemption for first £3,000 of gains**

[<sup>F4</sup>(1) An individual shall not be chargeable to capital gains tax in respect of so much of his taxable amount for any year of assessment as does not exceed [<sup>F5</sup>the exempt amount for the year].]

[<sup>F6</sup>(1A) Subject to subsection (1B) below, the exempt amount for any year of assessment shall be £5,000.

(1B) If the retail prices index for the month of December preceding the year 1983-84 or any subsequent year of assessment is higher than it was for the previous December, then, unless Parliament otherwise determines, subsection (1A) above shall have effect for that year as if for the amount specified in that subsection as it applied for the previous year (whether by virtue of this subsection or otherwise) there were substituted an amount arrived at by increasing the amount for the previous year by the same percentage as the percentage increase in the retail prices index and, if the result is not a multiple of £100, rounding it up to the nearest amount which is such a multiple.

(1C) The Treasury shall, before the year 1983–84 and each subsequent year, make an order specifying the amount which by virtue of this section is the exempt amount for that year ; and any such order shall be made by statutory instrument.]

(4) For the purposes of this section an individual's taxable amount for a year of assessment is the amount on which he is chargeable under section 4(1) above for that year but—

- (a) where the amount of chargeable gains less allowable losses accruing to an individual in any year of assessment does not exceed [<sup>F5</sup>the exempt amount for the year], no deduction from that amount shall be made for that year in respect of allowable losses carried forward from a previous year or carried back from a subsequent year in which the individual dies, and
- (b) where the amount of chargeable gains less allowable losses accruing to an individual in any year of assessment exceeds [<sup>F5</sup>the exempt amount for the year], the deduction from that amount for that year in respect of allowable losses carried forward from a previous year or carried back from a subsequent year in which the individual dies shall not be greater than the excess.

(5) Where in a year of assessment—

- (a) the amount of chargeable gains accruing to an individual does not exceed [<sup>F7</sup>the exempt amount for the year], and
- (b) the aggregate amount or value of the consideration for all the disposals of assets made by him (other than disposals gains accruing on which are not chargeable gains) does not exceed [<sup>F8</sup>an amount equal to twice the exempt amount for the year];

a statement to the effect of paragraphs (a) and (b) above shall, unless the inspector otherwise requires, be sufficient compliance with any notice under section 8 of the

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<sup>M2</sup>Taxes Management Act 1970 requiring the individual to make a return of the chargeable gains accruing to him in that year.

(6) Schedule 1 to this Act shall have effect as respects the application of this section to [<sup>F9</sup>husbands and wives], personal representatives and trustees.

#### Subordinate Legislation Made

- P1** S. 5: for previous exercises of this power see Index to Government Orders.  
**P2** S. 5(1C) power exercised by S.I. 1991/736.

#### Textual Amendments

- F4** S. 5(1) substituted for s. 5(1)–(3) by Finance Act 1980 (c. 48, SIF 63:1), s. 77(2) for 1980–81 et seq.  
**F5** Words substituted by Finance Act 1982 (c. 39, SIF 63:2), s. 80(1)(a) for 1982–83 et seq.  
**F6** S. 5(1A)–(1C) inserted by Finance Act 1982 (c. 39, SIF 63:2), s. 80(2) for 1982–83 et seq.  
**F7** Words substituted by Finance Act 1982 (c. 39, SIF 63:2), s. 80(1)(a) for 1982–83 et seq.  
**F8** Words substituted by Finance Act 1982 (c. 39, SIF 63:2), s. 80(1)(b) for 1982–83 et seq.  
**F9** Words repealed by Finance Act 1988 (c. 39, SIF 63:1, 2), s. 148 and Sch. 14 Pt. VIII from 1990–91

#### Modifications etc. (not altering text)

- C18** S. 5 amended (1990–91) by Finance Act 1990 (c. 29, SIF 63:2), s. 72  
**C19** S. 5 excluded by Finance Act 1991 (c. 31, SIF 63:2), s. 89(1), Sch. 16, para. 3(1)(a).  
**C20** £5,000 for 1988–89 and 1989–90  
**C21** S. 5(1B) does not apply for 1988–89 and 1989–90  
**C22** S. 5(1B) excluded (1990–91) by Finance Act 1990 (c.29, SIF 63:2), s. 72

#### Marginal Citations

- M2** 1970 c. 9.

**6** <sup>F10</sup> .....

#### Textual Amendments

- F10** S. 6 repealed by Finance Act 1984 (c. 43, SIF 63:2), ss. 63(1), 128(6), Sch. 23 Pt. VIII in relation to disposals on or after 6 April 1984

**7** **Time for payment of tax.**

Capital gains tax assessed on any person in respect of gains accruing in any year shall be payable by that person [<sup>F11</sup>on or before 1st December following the end of that year], or at the expiration of a period of thirty days beginning with the date of the issue of the notice of assessment, whichever is the later.

#### Textual Amendments

- F11** Words substituted by Finance Act 1980 (c. 48, SIF 63:2), s. 61(2) for 1980–81 et seq.

#### Modifications etc. (not altering text)

- C23** See Finance Act 1989 (c. 26, SIF 63:2), s. 134

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**[<sup>F12</sup>7A Payment by instalments of tax on gifts.**

- (1) Subsection (2) below applies where—
  - (a) the whole or any part of any assets to which this section applies is disposed of by way of gift or is deemed to be disposed of under section 54(1) or 55(1) below, and
  - (b) the disposal is one—
    - (i) to which neither section 126(3) nor section 147A(3) below applies (or would apply if a claim were duly made), or
    - (ii) to which either of those sections does apply but on which the held-over gain (within the meaning of the section applying) is less than the chargeable gain which would have accrued on that disposal apart from that section.
- (2) Where this subsection applies, the capital gains tax chargeable on a gain accruing on the disposal may, if the person paying it by notice in writing to the inspector so elects, be paid by ten equal yearly instalments.
- (3) The assets to which this section applies are—
  - (a) land or an estate or interest in land,
  - (b) any shares or securities of a company which, immediately before the disposal, gave control of the company to the person by whom the disposal was made or deemed to be made, and
  - (c) any shares or securities of a company not falling under paragraph (b) above and not quoted on a recognised stock exchange nor dealt in on the Unlisted Securities Market.
- (4) Where tax is payable by instalments by virtue of this section, the first instalment shall be due on the day on which the tax would be payable apart from this section.
- (5) Subject to the following provisions of this section—
  - (a) tax payable by instalments by virtue of this section shall carry interest in accordance with Part IX (except section 88) of the Taxes Management Act 1970, and
  - (b) the interest on the unpaid portion of the tax shall be added to each instalment and paid accordingly.
- (6) Tax payable by instalments by virtue of this section which is for the time being unpaid, with interest to the date of payment, may be paid at any time.
- (7) Tax which apart from this subsection would be payable by instalments by virtue of this section and which is for the time being unpaid, with interest to the date of payment, shall become due and payable immediately if—
  - (a) the disposal was by way of gift to a person connected with the donor or was deemed to be made under section 54(1) or 55(1) below, 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).]

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#### Textual Amendments

**F12** S. 7A inserted by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 5 in relation to disposals on or after 14th March 1989 (except where relief given under Finance Act 1980 (c. 48), s. 79 in respect of a disposal before that date)

**8, 9.** <sup>F13</sup> .....

#### Textual Amendments

**F13** Ss. 8, 9 repealed by Finance Act 1984 (c. 43, SIF 63:2), ss. 63(1), 128(6) and Sch. 23 Pt. VIII in relation to disposals on or after 6 April 1984

### *The foreign element*

## **10 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 Chapters I and II of Part XVIII of [<sup>F14</sup>the Taxes Act 1988], as they apply for the purposes of income tax, 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 section 347 of the <sup>M3</sup> Income Tax Act 1952 before 5th August 1965 (the date of the passing of the Finance Act 1965) 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 Chapters I and II 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 Chapters as they apply apart from this section.
- (4) Section [<sup>F15</sup>816] of [<sup>F15</sup>the Taxes Act 1988] (disclosure of information for purposes of double taxation) shall apply in relation to capital gains tax as it applies in relation to income tax.

#### Textual Amendments

**F14** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 15(a)

**F15** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 paras. 15 and 32

#### Marginal Citations

**M3** 1952 c. 10.



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

## 11 Allowance for foreign tax.

Subject to section 10 above, the tax chargeable under the law of any country outside the United Kingdom on the disposal of an asset which is borne by the person making the disposal shall be allowable as a deduction in the computation under Chapter II of Part II of this Act.

## 12 Non-resident with United Kingdom branch or agency.

- (1) Subject to any exceptions provided by this Act, a person shall be chargeable to capital gains tax in respect of chargeable gains accruing to him in a year of assessment in which he is not resident and not ordinarily resident in the United Kingdom but is carrying on a trade in the United Kingdom through a branch or agency, and shall be so chargeable on chargeable gains accruing on the disposal—
- (a) of assets situated in the United Kingdom and used in or for the purposes of the trade at or before the time when the capital gain accrued, or
  - (b) of assets situated in the United Kingdom and used or held for the purposes of the branch or agency at or before that time, or assets acquired for use by or for the purposes of the branch or agency.

[<sup>F16</sup>(1A) Subsection (1) above does not apply unless the disposal is made at a time when the person is carrying on the trade in the United Kingdom through a branch or agency.]

- (2) This section shall not apply to a person who, by virtue of Part XVIII of [<sup>F17</sup>the Taxes Act 1988](double taxation agreements), is exempt from income tax chargeable for the year of assessment in respect of the profits or gains of the branch or agency.

[<sup>F18</sup>(2A) This section shall apply as if references to a trade included references to a profession or vocation.]

- (3) In this Act, unless the context otherwise requires, “branch or agency” means any factorship, agency, receivership, branch or management, but does not include any person within the exemptions in section 82 of the <sup>M4</sup>Taxes Management Act 1970 (general agents and brokers).

### Textual Amendments

**F16** By [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 128(2)** it is provided that s. 12(1A) is inserted for 1989–90 and subsequent years

**F17** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32

**F18** By [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 126(2)** it is provided that s. 12(2A) is inserted for 1989–90 and subsequent years

### Modifications etc. (not altering text)

**C24** See—[Finance Act 1973 \(c. 51, SIF 63:1\)](#), **s. 38**; [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 761(2)(3)(4)**; [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 131**

**C25** See [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 127** et seq.

**C26** See—[Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 715(8)**; [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **s. 105(5)**

### Marginal Citations

**M4** 1970 c. 9.



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### **13 Foreign assets: delayed remittances.**

- (1) Subsection (2) below applies where—
- (a) chargeable gains accrue from the disposal of assets situated outside the United Kingdom, and
  - (b) the person charged or chargeable makes a claim and shows that the conditions set out in subsection (3) below are, so far as applicable, satisfied as respects those gains (“the qualifying gains”).
- (2) For the purposes of capital gains tax—
- (a) the amount of the qualifying gains shall be deducted from the amounts on which the claimant is assessed to capital gains tax for the year in which the qualifying gains accrued to the claimant, 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 conditions set out in subsection (3) below cease to be satisfied.
- (3) The said conditions are—
- (a) that the claimant was unable to transfer the qualifying gains to the United Kingdom, and
  - (b) that that inability was due to the laws of the territory where the <sup>F19</sup>assets were situated at the time of the disposal], 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 the part of the claimant.
- (4) Where under an agreement entered into under arrangements made by the Secretary of State in pursuance of section 1 of the <sup>M5</sup>Overseas Investment and Export Guarantees Act 1972 or section 11 of the <sup>M6</sup>Export Guarantees and Overseas Investment Act 1978 any payment is made by the Exports Credits Guarantee Department in respect of any gains which cannot be transferred to the United Kingdom, then, to the extent of the payment, the gains shall be treated as gains with respect to which the conditions mentioned in subsection (3) above are not satisfied (and accordingly cannot cease to be satisfied).
- (5) 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.
- (6) The personal representatives of a deceased person may make any claim which he might have made under this section if he had not died.

#### **Textual Amendments**

**F19** Words in s. 13(3)(b) substituted by Finance Act 1991 (c. 31, SIF 63:2), s. 97(1)(2).

#### **Modifications etc. (not altering text)**

**C27** See Finance Act 1988 (c. 39, SIF 63:1, 2), s. 104(3) for changes in respect of married couples from 1990–91

#### **Marginal Citations**

**M5** 1972 c. 40.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**M6** 1978 c. 18.

## 14 Foreign assets of person with foreign domicile.

- (1) In the case of individuals resident or ordinarily resident but not domiciled in the United Kingdom, capital gains tax shall not be charged in respect of gains accruing to them from the disposal of assets situated outside the United Kingdom (that is chargeable gains accruing in the year 1965-66 or a later year of assessment) except that the tax shall be charged on the amounts (if any) received in the United Kingdom in respect of those chargeable gains, any such amounts being treated as gains accruing when they are received in the United Kingdom.
- (2) For the purposes of this section 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 subsections [F20(6) to (9) of section 65] of [F20the Taxes Act 1988] (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 they would apply for the purposes of subsection [F20(5) of that section] if the gain were income arising from possessions out of the United Kingdom.

### Textual Amendments

**F20** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

### Modifications etc. (not altering text)

**C28** See— [Finance Act 1973 \(c. 51, SIF 63:1\)](#), [s. 38](#); [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [s. 761\(5\)](#)

## 15 Non-resident company.

- (1) This section applies as respects chargeable gains accruing to a company—
  - (a) which is not resident in the United Kingdom, and
  - (b) which would be a close company if it were resident in the United Kingdom.
- (2) Subject to this section, every person who at the time when the chargeable gain accrues to the company is resident or ordinarily resident in the United Kingdom, who, if an individual, is domiciled in the United Kingdom, and who holds shares in the company, shall be treated for the purposes of this Act as if a part of the chargeable gain had accrued to him.
- (3) That part shall be equal to the proportion of the assets of the company to which that person would be entitled on a liquidation of the company at the time when the chargeable gain accrues to the company.
- (4) If the part of a chargeable gain attributable to a person under subsection (2) above is less than one-twentieth, the said subsection (2) shall not apply to that person.
- (5) This section shall not apply in relation to—
  - (a) any amount in respect of the chargeable gain which is distributed, whether by way of dividend or distribution of capital or on the dissolution of the company,

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- to persons holding shares in the company, or creditors of the company, within two years from the time when the chargeable gain accrued to the company, or
- (b) a chargeable gain accruing on the disposal of assets, being tangible property, whether movable or immovable, or a lease of such property, where the property was used, and used only, for the purposes of a trade carried on by the company wholly outside the United Kingdom, or
  - (c) a chargeable gain accruing on the disposal of currency or of a debt within section 135(1) below (foreign currency bank accounts), where the currency or debt is or represents money in use for the purposes of a trade carried on by the company wholly outside the United Kingdom, or
  - (d) to a chargeable gain in respect of which the company is chargeable to tax by virtue of section <sup>F21</sup>11(2)(b) of <sup>F21</sup>the Taxes Act 1988 (gains corresponding to those charged under section 12 above).
- (6) Subsection (5)(a) above shall not prevent the making of an assessment in pursuance of this section but if, by virtue of that paragraph, this section is excluded all such adjustments, whether by way of repayment or discharge of tax or otherwise, shall be made as will give effect to the provisions of that paragraph.
- (7) The amount of capital gains tax paid by a person in pursuance of subsection (2) above (so far as not reimbursed by the company) shall be allowable as a deduction in the computation under this Act of a gain accruing on the disposal by him of the shares by reference to which the tax was paid.
- (8) So far as it would go to reduce or extinguish chargeable gains accruing by virtue of this section to a person in a year of assessment this section shall apply in relation to a loss accruing to the company on the disposal of an asset in that year of assessment as it would apply if a gain instead of a loss had accrued to the company on the disposal, but shall only so apply in relation to that person; and subject to the preceding provisions of this subsection this section shall not apply in relation to a loss accruing to the company.
- (9) If the person owning any of the shares in the company at the time when the chargeable gain accrues to the company is itself a company which is not resident in the United Kingdom but which would be a close company if it were resident in the United Kingdom, an amount equal to the amount apportioned under subsection (3) above out of the chargeable gain to the shares so owned shall be apportioned among the issued shares of the second-mentioned company, and the holders of those shares shall be treated in accordance with subsection (2) above, and so on through any number of companies.
- (10) If any tax payable by any person by virtue of subsection (2) above is paid by the company to which the chargeable gain accrues, or in a case under subsection (9) above is paid by any such other company, the amount so paid shall not for the purposes of income tax, capital gains tax or corporation tax be regarded as a payment to the person by whom the tax was originally payable.

#### Textual Amendments

**F21** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and [32](#)

#### Modifications etc. (not altering text)

**C29** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [s. 762\(1\)](#)

**C30** See— [Taxes Management Act 1970 \(c. 9, SIF 63:1\)](#), [s. 28](#) [Finance Act 1981 \(c. 35, SIF 63:2\)](#), [s. 85](#)

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**C31** See Finance Act 1988 (c. 39, SIF 63:1, 2), s. 109 and Sch. 10 para. 8

## 16 Non-resident group of companies.

- (1) This section has effect for the purposes of section 15 above.
- (2) Sections 273 to 275 and 276(1) of [<sup>F22</sup>the Taxes Act 1970] shall apply in relation to non-resident companies which are members of a non-resident group of companies, as they apply in relation to companies resident in the United Kingdom which are members of a group of companies.
- (3) Sections 278 and 279 of [<sup>F22</sup>the Taxes Act 1970] shall apply for the said purposes as if for any reference therein to a group of companies there were substituted a reference to a non-resident group of companies, and as if references to companies were references to companies not resident in the United Kingdom.
- (4) For the purposes of this section—
  - (a) a “non-resident group” of companies—
    - (i) in the case of a group, none of the members of which are resident in the United Kingdom, means that group, and
    - (ii) in the case of a group, two or more members of which are not resident in the United Kingdom means the members which are not resident in the United Kingdom;
  - (b) “group” shall be construed in accordance with subsections (1) (without paragraph (a), (3) and (4) of section 272 of [<sup>F22</sup>the Taxes Act 1970]).

### Textual Amendments

**F22** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 para. 15\(b\)](#)

## 17 <sup>F23</sup> .....

### Textual Amendments

**F23** [S. 17](#) repealed by [Finance Act 1981 \(c. 35, SIF 63:2\)](#), [ss. 80\(8\), 139](#) and Sch. 19 Pt. VIII in relation to chargeable gains accruing to trustees after 5 April 1981

## 18 Residence etc. and location of assets.

- (1) In this Act “resident” and “ordinarily resident” have the same meanings as in the Income Tax Acts.
- (2) Section 207 of [<sup>F24</sup>the Taxes Act 1988] (disputes as to domicile or ordinary residence) shall apply in relation to capital gains tax as it applies for the purposes mentioned in that section.
- (3) Subject to section 12(1) above, an individual who is in the United Kingdom for some temporary purpose only and not with any view or intent to establish his residence in the United Kingdom shall be charged to capital gains tax on chargeable gains accruing

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in any year of assessment if and only if the period (or the sum of the periods) for which he is resident in the United Kingdom in that year of assessment exceeds six months.

(4) For the purposes of this Act—

- (a) the situation of rights or interests (otherwise than by way of security) in or over immovable property is that of the immovable property,
- (b) subject to the following provisions of this subsection, the situation of rights or interests (otherwise than by way of security) in or over tangible movable property is that of the tangible movable property,
- (c) subject to the following provisions of this subsection, a debt, secured or unsecured, is situated in the United Kingdom if and only if the creditor is resident in the United Kingdom,
- (d) shares or securities issued by any municipal or governmental authority, or by any body created by such an authority, are situated in the country of that authority,
- (e) subject to paragraph (d) above, registered shares or securities are situated where they are registered and, if registered in more than one register, where the principal register is situated,
- (f) a ship or aircraft is situated in the United Kingdom if and only if the owner is then resident in the United Kingdom, and an interest or right in or over a ship or aircraft is situated in the United Kingdom if and only if the person entitled to the interest or right is resident in the United Kingdom,
- (g) the situation of good-will as a trade, business or professional asset is at the place where the trade, business or profession is carried on,
- [<sup>F25</sup>(ha) patents, trade marks, service marks and registered designs are situated where they are registered, and if registered in more than one register, where each register is situated, and rights or licences to use a patent, trade mark, service mark or registered design are situated in the United Kingdom if they or any right derived from them are exercisable in the United Kingdom,
- (hb) copyright, design right and franchises, and rights or licences to use any copyright work or design in which design right subsists, are situated in the United Kingdom if they or any right derived from them are exercisable in the United Kingdom,]
- (i) a judgment debt is situated where the judgment is recorded.
- [<sup>F26</sup>(j) a debt which—
  - (i) is owed by a bank, and
  - (ii) is not in sterling, and
  - (iii) is represented by a sum standing to the credit of an account in the bank of an individual who is not domiciled in the United Kingdom, is situated in the United Kingdom if and only if that individual is resident in the United Kingdom and the branch or other place of business of the bank at which the account is maintained is itself situated in the United Kingdom.]

[<sup>F27</sup>(5) A period during which a member of a visiting force to whom section 323(1) of the Taxes Act 1988 applies is in the United Kingdom by reason solely of his being a member of that force shall not be treated for the purposes of capital gains tax either as a period of residence in the United Kingdom or as creating a change in his residence or domicile.

This subsection shall be construed as one with subsection (2) of section 323 and subsections (4) to (8) of that section shall apply accordingly.

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- (6) An Agent-General who is resident in the United Kingdom shall be entitled to the same immunity from capital gains tax as that to which the head of a mission so resident is entitled under the Diplomatic Privileges Act 1964.
- (7) Any person having or exercising any employment to which section 320(2) of the Taxes Act 1988 applies (not being a person employed in any trade, business or other undertaking carried on for the purposes of profit) shall be entitled to the same immunity from capital gains tax as that to which a member of the staff of a mission is entitled under the Diplomatic Privileges Act 1964.
- (8) Subsections (6) and (7) above shall be construed as one with section 320 of the Taxes Act 1988.]

#### Textual Amendments

- F24** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 15(a)**
- F25** [S. 18\(4\)\(ha\)\(hb\)](#) substituted for [s. 18\(4\)\(h\)](#) by [Copyright, Designs and Patents Act 1988 \(c. 48\)](#), **Sch. 7 para. 26**
- F26** [S. 18\(4\)\(j\)](#) added by [Finance Act 1984 \(c. 43\)](#), **s. 69** (deemed to have come into force on 6 April 1983)
- F27** [S. 18\(5\)–\(8\)](#) inserted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 16**

#### Modifications etc. (not altering text)

- C32** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 723(8)**

## PART II

### GAINS AND LOSSES

#### CHAPTER I

##### DISPOSALS

#### Modifications etc. (not altering text)

- C33** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **ss. 57, 757(2)** and [Sch. 4 para. 7](#)

## 19 Disposal of assets.

- (1) All forms of property shall be assets for the purposes of this Act, whether situated in the United Kingdom or not, including—
- options, debts and incorporeal property generally, and
  - any currency other than sterling, and
  - any form of property created by the person disposing of it, or otherwise coming to be owned without being acquired.
- (2) For the purposes of this Act—
- references to a disposal of an asset include, except where the context otherwise requires, references to a part disposal of an asset, and

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- (b) there is a part disposal of an asset where an interest or right in or over the asset is created by the disposal, as well as where it subsists before the disposal, and generally, there is a part disposal of an asset where, on a person making a disposal, any description of property derived from the asset remains undisposed of.
- (3) ..... F28
- (4) It is hereby declared that winnings from betting, including pool betting, or lotteries or games with prizes are not chargeable gains, and no chargeable gain or allowable loss shall accrue on the disposal of rights to winnings obtained by participating in any pool betting or lottery or game with prizes.
- (5) 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.

**Textual Amendments**

**F28** S. 19(3) repealed by [Finance Act 1981 \(c. 35, SIF 63:2\)](#), **ss. 90(3), 139** and Sch. 19 Pt. VIII in relation to acquisitions and disposals on or after 10 March 1981

**Modifications etc. (not altering text)**

**C34** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 440(9)**

**20 Capital sums derived from assets.**

- (1) Subject to sections 21 and 23(1) below, and to any other exceptions in this Act, there is for the purposes of this Act a disposal of assets by their owner where any capital sum is derived from assets notwithstanding that no asset is acquired by the person paying the capital sum, and this subsection applies in particular to—
- (a) capital sums received by way of compensation for any kind of damage or injury to assets or for the loss, destruction or dissipation of assets or for any depreciation or risk of depreciation of an asset,
  - (b) capital sums received under a policy of insurance of the risk of any kind of damage or injury to, or the loss or depreciation of, assets,
  - (c) capital sums received in return for forfeiture or surrender of rights, or for refraining from exercising rights, and
  - (d) capital sums received as consideration for use or exploitation of assets.
- (2) In the case of a disposal within paragraph (a), (b), (c) or (d) of subsection (1) above the time of the disposal shall be the time when the capital sum is received as described in that subsection.
- (3) In this section “capital sum” means any money or money’s worth which is not excluded from the consideration taken into account in the computation under Chapter II below.

**Modifications etc. (not altering text)**

**C35** See [Development Land Tax Act 1976 \(c. 24\)](#), **ss. 35–37** (which Act was repealed by [Finance Act 1985 \(c. 54, SIF 63:2\)](#), **ss. 93, 98(6)** and Sch. 27 Pt. X)



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## 21 Capital sums: compensation and insurance money.

(1) If the recipient so claims, receipt of a capital sum within paragraph (a), (b), (c) or (d) of section 20(1) above derived from an asset which is not lost or destroyed shall not be treated for the purposes of this Act as a disposal of the asset if—

- (a) the capital sum is wholly applied in restoring the asset, or
- (b) (subject to subsection (2) below), the capital sum is applied in restoring the asset except for a part of the capital sum which is not reasonably required for the purpose and which is small as compared with the whole capital sum, or
- (c) (subject to subsection (2) below), the amount of the capital sum is small, as compared with the value of the asset,

but, if the receipt is not treated as a disposal, all sums which would, if the receipt had been so treated, have been brought into account as consideration for that disposal in the computation under Chapter II below of a gain accruing on the disposal shall be deducted from any expenditure allowable under Chapter II below as a deduction in computing a gain on the subsequent disposal of the asset.

(2) If the allowable expenditure is less than the consideration for the disposal constituted by the receipt of the capital sum (or is nil)—

- (a) paragraphs (b) and (c) of subsection (1) above shall not apply, and
- (b) if the recipient so elects (and there is any allowable expenditure)—
  - (i) the amount of the consideration for the disposal shall be reduced by the amount of the allowable expenditure, and
  - (ii) none of that expenditure shall be allowable as a deduction in computing a gain accruing on the occasion of the disposal or any subsequent occasion.

In this subsection “allowable expenditure” means expenditure which, immediately before the disposal, was attributable to the asset under paragraphs (a) and (b) of section 32(1) below.

(3) If, in a case not falling within subsection (1)(b) above, a part of a capital sum within paragraph (a) or paragraph (b) of section 20(1) above derived from an asset which is not lost or destroyed is applied in restoring the asset, then if the recipient so claims, that part of the capital sum shall not be treated as consideration for the disposal deemed to be effected on receipt of the capital sum but shall be deducted from any expenditure allowable under Chapter II below as a deduction in computing a gain on the subsequent disposal of the asset.

(4) If an asset is lost or destroyed and a capital sum received by way of compensation for the loss or destruction, or under a policy of insurance of the risk of the loss or destruction, is within one year of receipt, or such longer period as the inspector may allow, applied in acquiring an asset in replacement of the asset lost or destroyed the owner shall if he so claims be treated for the purposes of this Act—

- (a) as if the consideration for the disposal of the old asset were (if otherwise of a greater amount) of such amount as would secure that on the disposal neither a gain nor a loss accrues to him, and
- (b) as if the amount of the consideration for the acquisition of the new asset were reduced by the excess of the amount of the capital sum received by way of compensation or under the policy of insurance, together with any residual or scrap value, over the amount of the consideration which he is treated as receiving under paragraph (a) above.

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- (5) A claim shall not be made under subsection (4) above if part only of the capital sum is applied in acquiring the new asset but if all of that capital sum except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the old asset is so applied, then the owner shall if he so claims be treated for the purposes 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 of the consideration for the acquisition of the new asset were reduced by the amount by which the gain is reduced under paragraph (a) of this subsection.
- (6) Subsections (4) and (5) above have effect subject to paragraph 18 of Schedule 5 to this Act (application to gain which in consequence of that Schedule is not all chargeable gain).
- (7) This section shall not apply in relation to a wasting asset.

**Modifications etc. (not altering text)**

- C36** See Finance Act 1989 (c. 26, SIF 63:2), s. 141 and Sch. 15 para. 3  
**C37** See Finance Act 1988 (c. 39, SIF 63:1, 2), s. 97 and Sch. 9 para. 2(3)  
**C38** S. 21(4) modified (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para.2  
S. 21(7) excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para.2

**22 Assets lost or destroyed, or whose value becomes negligible.**

- (1) Subject to the provisions of this Act and, in particular to section 137 below (options), the occasion of the entire loss, destruction, dissipation or extinction of an asset shall, for the purposes of this Act, constitute a disposal of the asset whether or not any capital sum by way of compensation or otherwise is received in respect of the destruction, dissipation or extinction of the asset.
- (2) If, on a claim by the owner of an asset, the inspector is satisfied that the value of an asset has become negligible, he may allow the claim and thereupon this Act shall have effect as if the claimant had sold, and immediately re-acquired, the asset for a consideration of an amount equal to the value specified in the claim.
- (3) For the purposes of subsections (1) and (2) above, a building and any permanent or semi-permanent structure in the nature of a building, may be regarded as an asset separate from the land on which it is situated, but where either of those subsections applies in accordance with this subsection, the person deemed to make the disposal of the building or structure shall be treated as if he had also sold, and immediately re-acquired, the site of the building or structure (including in the site any land occupied for purposes ancillary to the use of the building or structure) for a consideration equal to its market value at that time.

**Modifications etc. (not altering text)**

- C39** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 575

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## **23 Mortgages and charges.**

- (1) The conveyance or transfer by way of security of an asset or of an interest or right in or over it, or transfer of a subsisting interest or right by way of security in or over an asset (including a retransfer on redemption of the security), shall not be treated for the purposes of this Act as involving any acquisition or disposal of the asset.
- (2) Where a person entitled to an asset by way of security or to the benefit of a charge or incumbrance on an asset deals with the asset for the purpose of enforcing or giving effect to the security, charge or incumbrance his dealings with it shall be treated for the purposes of this Act as if they were done through him as nominee by the person entitled to it subject to the security, charge or incumbrance; and this subsection shall apply to the dealings of any person appointed to enforce or give effect to the security, charge or incumbrance as receiver and manager or judicial factor as it applies to the dealings of the person entitled as aforesaid.
- (3) An asset shall be treated as having been acquired free of any interest or right by way of security subsisting at the time of any acquisition of it, and as being disposed of free of any such interest or right subsisting at the time of the disposal; and where an asset is acquired subject to any such interest or right the full amount of the liability thereby assumed by the person acquiring the asset shall form part of the consideration for the acquisition and disposal in addition to any other consideration.

## **24 Hire-purchase.**

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 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.

## **25 Value shifting.**

- (1) Without prejudice to the generality of the provisions of this Act as to the transactions which are disposals of assets, any transaction which under the following subsections is to be treated as a disposal of an asset shall be so treated (with a corresponding acquisition of an interest in the asset) notwithstanding that there is no consideration and so far as, on the assumption that the parties to the transaction were at arm's length, the party making the disposal could have obtained consideration, or additional consideration, for the disposal the transaction shall be treated as not being at arm's length and the consideration so obtainable, or the additional consideration so obtainable added to the consideration actually passing, shall be treated as the market value of what is acquired.
- (2) If a person having control of a company exercises his control so that value passes out of shares in the company owned by him or a person with whom he is connected, or out of rights over the company exercisable by him or by a person with whom he is connected, and passes into other shares in or rights over the company, that shall be a disposal of the shares or rights out of which the value passes by the person by whom they were owned or exercisable.

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- (3) A loss on the disposal of an asset shall not be an allowable loss to the extent to which it is attributable to value having passed out of other assets, being shares in or rights over a company which by virtue of the passing of value are treated as disposed of under subsection (2) above.
- (4) If, after a transaction which results in the owner of land or of any other description of property becoming the lessee of the property there is any adjustment of the rights and liabilities under the lease, whether or not involving the grant of a new lease, which is as a whole favourable to the lessor, that shall be a disposal by the lessee of an interest in the property.
- (5) If an asset is subject to any description of right or restriction the extinction or abrogation, in whole or in part, of the right or restriction by the person entitled to enforce it shall be a disposal by him of the right or restriction.

## 26 Value shifting: further provisions.

- (1) This section has effect as respects the disposal of an asset if a scheme has been effected or arrangements have been made (whether before or after the disposal) whereby—
  - (a) the value of the asset [<sup>F29</sup>or a relevant asset] has been materially reduced, and
  - (b) a tax-free benefit has been or will be conferred—
    - (i) on the person making the disposal or a person with whom he is connected, or
    - (ii) subject to subsection (3) below, on any other person.

[<sup>F29</sup>(1A) For the purposes of this section, where the asset disposed of by a company (“the disposing company”) consists of shares in, or securities of, another company, another asset is a relevant asset if, at the time of the disposal, it is owned by a company associated with the disposing company; but no account shall be taken of any reduction in the value of a relevant asset except in a case where—

- (a) during the period beginning with the reduction in value and ending immediately before the disposal by the disposing company, there is no disposal of the asset to any person, other than a disposal falling within section 273(1) of the Taxes Act 1970 (transfers within a group: no gain/no loss),
- (b) no disposal of the asset is treated as having occurred during that period by virtue of section 278 of the Taxes Act 1970 (company ceasing to be member of group), and
- (c) if the reduction had not taken place but any consideration given for the relevant asset and any other material circumstances (including any consideration given before the disposal for the asset disposed of) were unchanged, the value of the asset disposed of would, at the time of the disposal, have been materially greater;

and in this subsection “securities” has the same meaning as in section 82 below.]

- (2) For the purposes of subsection (1)(b) above a benefit is conferred on a person if he becomes entitled to any money or money’s worth or the value of any asset in which he has an interest is increased or he is wholly or partly relieved from any liability to which he is subject; and a benefit is tax-free unless it is required, on the occasion on which it is conferred on the person in question, to be brought into account in computing his income, profits or gains for the purposes of income tax, capital gains tax or corporation tax.

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- (3) This section shall not apply by virtue of subsection (1)(b)(ii) above if it is shown that avoidance of tax was not the main purpose or one of the main purposes of the scheme or arrangements in question.
- (4) Where this section has effect in relation to any disposal, any allowable loss or chargeable gain accruing on the disposal shall be calculated as if the consideration for the disposal were increased by such amount as appears to the inspector, or on appeal the Commissioners concerned, to be just and reasonable having regard to the scheme or arrangements and the tax-free benefit in question.
- (5) Where—
- by virtue of subsection (4) above the consideration for the disposal of an asset has been treated as increased, and
  - the benefit taken into account under subsection (1)(b) above was an increase in the value of another asset,
- any allowable loss or chargeable gain accruing on the first disposal of the other asset after the increase in its value shall be calculated as if the consideration for that disposal were reduced by such amount as appears to the inspector, or on appeal the Commissioners concerned, to be just and reasonable having regard to the scheme or arrangements in question and the increase made in relation to the disposal mentioned in paragraph (a) above.
- (6) References in this section to a disposal do not include references to any disposal falling within—
- section 44(1) below (disposals between husband and wife), or
  - section 49(4) below (disposals by personal representatives to legatees), or
  - section 273(1) of [<sup>F30</sup>the Taxes Act 1970] (disposals within a group of companies).
- [<sup>F31</sup>(7) References in this section, in relation to any disposal, to a reduction in the value of an asset, where the asset consists of shares owned by a company in another company, shall be interpreted in accordance with sections 26A to 26C below and, in those sections, the disposal, the asset and those companies are referred to respectively as “the section 26 disposal”, “the principal asset”, “the first company” and “the second company”.]
- (8) In relation to a case in which the disposal of an asset precedes its acquisition the [<sup>F32</sup>references in subsections (1)(a) and (1A)] above to a reduction shall be read as including a reference to an increase.

#### Textual Amendments

- F29** Words inserted by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 135(1)** in respect of disposals on or after 14 March 1989
- F30** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 15**
- F31** [S. 26\(7\)](#) substituted by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 135(2)** in respect of disposals on or after 14 March 1989
- F32** Words substituted by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 135(3)** in respect of disposals on or after 14 March 1989

#### Modifications etc. (not altering text)

- C40** See— [Capital Gains Tax Act 1979 \(c. 14\)](#), **Sch. 6 para. 11**; [Trustee Savings Banks Act 1985 \(c. 58, SIF 110\)](#), **s. 5** and Sch. 2 para. 4(3)

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**C41** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 576(2)

**[<sup>F33</sup>26A Value shifting: distributions within a group followed by a disposal of shares.**

- (1) The references in section 26 above to a reduction in the value of an asset, in the case mentioned in subsection (7) of that section, do not include a reduction attributable to the payment of a dividend by the second company at a time when it and the first company are associated, except to the extent (if any) that the dividend is attributable to chargeable profits of the second company and, in such a case, the tax-free benefit shall be ascertained without regard to any part of the dividend that is not attributable to such profits.
- (2) Subsections (3) to (11) below apply for the interpretation of subsection (1) above.
- (3) Chargeable profits shall be ascertained as follows—
  - (a) the distributable profits of any company are chargeable profits of that company to the extent that they are profits arising on a transaction caught by this section, and
  - (b) where any company makes a distribution attributable wholly or partly to chargeable profits (including any profits that are chargeable profits by virtue of this paragraph) to another company, the distributable profits of the other company, so far as they represent that distribution or so much of it as was attributable to chargeable profits, are chargeable profits of the other company, and for this purpose any loss or other amount to be set against the profits of a company in determining the distributable profits shall be set first against profits other than the profits so arising or, as the case may be, representing so much of the distribution as was attributable to chargeable profits.
- (4) The distributable profits of a company are such profits computed on a commercial basis as, after allowing for any provision properly made for tax, the company is empowered, assuming sufficient funds, to distribute to persons entitled to participate in the profits of the company.
- (5) Profits of a company (“company A”) are profits arising on a transaction caught by this section where each of the following three conditions is satisfied.
- (6) The first condition is that the transaction is—
  - (a) a disposal of an asset by company A to another company in circumstances such that company A and the other company are treated as mentioned in section 273(1) of the Taxes Act 1970 (transfers within a group: no gain/no loss), or
  - (b) an exchange, or a transaction treated for the purposes of section 85(2) and (3) below as an exchange, of shares in or debentures of a company held by company A for shares in or debentures of another company, being a company associated with company A immediately after the transaction, and is treated by virtue of section 85(3) below as a reorganisation of share capital, or
  - (c) a revaluation of an asset in the accounting records of company A.

In the following conditions the “asset with enhanced value” means (subject to section 26C below), in the paragraph (a) case, the asset acquired by the person to whom the disposal is made, in the paragraph (b) case, the shares in or debentures of the other company and, in the paragraph (c) case, the revalued asset.

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- (7) The second condition is that—
- (a) during the period beginning with the transaction referred to in subsection (6) above and ending immediately before the section 26 disposal, there is no disposal of the asset with enhanced value to any person, other than a disposal falling within section 273(1) of the Taxes Act 1970, and
  - (b) no disposal of the asset with enhanced value is treated as having occurred during that period by virtue of section 278 of the Taxes Act 1970 (company ceasing to be member of group).
- (8) The third condition is that, immediately after the section 26 disposal, the asset with enhanced value is owned by a person other than the company making that disposal or a company associated with it.
- (9) The conditions in subsections (6) to (8) above are not satisfied if—
- (a) at the time of the transaction referred to in subsection (6) above, company A carries on a trade and a profit on a disposal of the asset with enhanced value would form part of the trading profits, or
  - (b) by reason of the nature of the asset with enhanced value, a disposal of it could give rise neither to a chargeable gain nor to an allowable loss, or
  - (c) immediately before the section 26 disposal, the company owning the asset with enhanced value carries on a trade and a profit on a disposal of the asset would form part of the trading profits.
- (10) The amount of chargeable profits of a company to be attributed to any distribution made by the company at any time in respect of any class of shares, securities or rights shall be ascertained by—
- (a) determining the total of distributable profits, and the total of chargeable profits, that remains after allowing for earlier distributions made in respect of that or any other class of shares, securities or rights, and for distributions made at or to be made after that time in respect of other classes of shares, securities or rights, and
  - (b) attributing first to that distribution distributable profits other than chargeable profits.
- (11) The amount of chargeable profits of a company to be attributed to any part of a distribution made at any time to which a person is entitled by virtue of any part of his holding of any class of shares, securities or rights, shall be such proportion of the chargeable profits as are attributable under subsection (10) above to the distributions made at that time in respect of that class as corresponds to that part of his holding.]

#### Textual Amendments

**F33** Ss. 26A–26C inserted by Finance Act 1989 (c. 26, SIF 63:2), s. 136 in respect of disposals on or after 14 March 1989 but no account taken of reduction in value attributable to a dividend (s. 26A) or to a disposal of asset (s. 26B) before 14 March 1989

#### 26B

- (1) The references in section 26 above to a reduction in the value of an asset, in the case mentioned in subsection (7) of that section, do not include a reduction attributable to the disposal of any asset (“the underlying asset”) by the second company at a time when it and the first company are associated, being a disposal falling within



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section 273(1) of the Taxes Act 1970 (transfers within group: no gain/no loss), except in a case within subsection (2) below.

- (2) A case is within this subsection if the amount or value of the actual consideration for the disposal of the underlying asset—
  - (a) is less than the market value of the underlying asset, and
  - (b) is less than the cost of the underlying asset,unless the disposal is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to corporation tax.
- (3) For the purposes of subsection (2) above, the cost of an asset owned by a company is the aggregate of—
  - (a) any capital expenditure incurred by the company in acquiring or providing the asset, and
  - (b) any other capital expenditure incurred by the company in respect of the asset while owned by that company.
- (4) For the purposes of this section, where the disposal of the underlying asset is a part disposal, the reference in subsection (2)(a) above to the market value of the underlying asset is to the market value of the asset acquired by the person to whom the disposal is made and the amounts to be attributed to the underlying asset under paragraphs (a) and (b) of subsection (3) above shall be reduced to the appropriate proportion of those amounts, that is—
  - (a) the proportion of capital expenditure in respect of the underlying asset properly attributed in the accounting records of the company to the asset acquired by the person to whom the disposal is made, or
  - (b) where paragraph (a) above does not apply, such proportion as appears to the inspector, or on appeal the Commissioners concerned, to be just and reasonable.
- (5) Where by virtue of a distribution in the course of dissolving or winding up the second company the first company is treated as disposing of an interest in the principal asset, the exception mentioned in subsection (1) above does not apply.

## 26C

- (1) For the purposes of sections 26(1A) and 26A(7) to (9) above, subsections (2) to (6) below apply for the purpose of determining in the case of any asset (“the original asset”) whether it is subsequently disposed of or treated as disposed of or owned or any other condition is satisfied in respect of it.
- (2) References in sections 26(1A)(a) and (b) and 26A(7) to a disposal are to a disposal other than a part disposal.
- (3) References to an asset are to the original asset or, where at a later time one or more assets are treated by virtue of subsections (5) or (6) below as the same as the original asset—
  - (a) if no disposal falling within paragraph (a) or (b) of section 26(1A) or, as the case may be, of 26A(7) has occurred, those references are to the asset so treated or, as the case may be, all the assets so treated, and
  - (b) in any other case, those references are to an asset or, as the case may be, all the assets representing that part of the value of the original asset that remains after allowing for earlier disposals falling within the paragraphs concerned,

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references in this subsection to a disposal including a disposal which would fall within the paragraphs concerned but for subsection (2) above.

- (4) Where by virtue of subsection (3) above those references are to two or more assets—
- (a) those assets shall be treated as if they were a single asset,
  - (b) any disposal of any one of them is to be treated as a part disposal, and
  - (c) the reference in section 26(1A) to the asset owned at the time of the disposal by a company associated with the disposing company and the reference in section 26A(8) to the asset with enhanced value is to all or any of those assets.

- (5) Where there is a part disposal of an asset, that asset and the asset acquired by the person to whom the disposal is made are to be treated as the same.

- (6) Where the value of an asset is derived from any other asset in the ownership of the same or an associated company, in a case where assets have been merged or divided or have changed their nature or rights or interests in or over assets have been created or extinguished, the first asset is to be treated as the same as the second.

- (7) For the purposes of section 26(1A) above, where account is to be taken under that subsection of a reduction in the value of a relevant asset and at the time of the disposal by the disposing company referred to in that subsection—

- (a) references to the relevant asset are by virtue of this section references to two or more assets treated as a single asset, and
- (b) one or more but not all of those assets are owned by a company associated with the disposing company,

the amount of the reduction in the value of the relevant asset to be taken into account by virtue of that subsection shall be reduced to such amount as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable.

- (8) For the purposes of section 26A above, where—

- (a) a dividend paid by the second company is attributable to chargeable profits of that company, and
- (b) the condition in subsection (7), (8) or (9)(c) of that section is satisfied by reference to an asset, or assets treated as a single asset, treated by virtue of subsection (3)(b) above as the same as the asset with enhanced value,

the amount of the reduction in value of the principal asset shall be reduced to such amount as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable.

- (9) For the purposes of sections 26 to 26B above and this section, companies are associated if they are members of the same group.

- (10) Section 272(1) to (4) of the Taxes Act 1970 (groups of companies: definitions) applies for the purposes of sections 26 to 26B above and this section as it applies for the purposes of that section.

<sup>F34</sup>**26D** (1) Where—

- (a) but for sections 78 and 85(3) below, section 26 above would have effect as respects the disposal by a company (“the disposing company”) of an asset consisting of shares in or debentures of another company (“the original holding”) in exchange for shares in or debentures of a further company which,

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immediately after the disposal, is not a member of the same group as the disposing company, and

- (b) if section 26 above had effect as respects that disposal, any allowable loss or chargeable gain accruing on the disposal would be calculated as if the consideration for the disposal were increased by an amount,

the disposing company shall be treated for the purposes of section 79(2) below as receiving, on the reorganisation of share capital that is treated as occurring by virtue of section 85(3) below, that amount for the disposal of the original holding.

- (2) For the purposes of subsection (1) above it shall be assumed that section 86 below has effect generally for the purposes of this Act, and in that subsection “group” has the same meaning as in sections 26 to 26C above.]

#### Textual Amendments

**F34** S. 26D inserted by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), s. 137

#### Modifications etc. (not altering text)

**C42** S. 26D has effect where reduction in value, by reason of which the amount referred to in s. 26D(1)(b) falls to be calculated, occurred on or after 14 March 1989

## 27 Time of disposal and acquisition where asset disposed of under contract.

- (1) Where an asset is disposed of and acquired under a contract the time at which the disposal and acquisition is made is the time the contract is made (and not, if different, the time at which the asset is conveyed or transferred).

This subsection has effect subject to section 20(2) above, and subsection (2) below.

- (2) If the contract is conditional (and in particular if it is conditional on the exercise of an option) the time at which the disposal and acquisition is made is the time when the condition is satisfied.

#### Modifications etc. (not altering text)

**C43** S. 27 applied by [Finance Act 1990 \(c. 29, SIF 58\)](#), s. 120(1)

**C44** S. 27 applied (G.B.) by [Ports Act 1991 \(c. 52, SIF 58\)](#), s. 20(5)

## CHAPTER II

### COMPUTATION

#### Modifications etc. (not altering text)

**C45** Pt. II Chapter II (ss. 28-43) modified by [Finance Act 1991 \(c. 31, SIF 63:2\)](#), s. 102(3).

**C46** Pt. II Chapter II (ss. 28-43) applied (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, [Sch. 2 para. 8\(1\)](#)

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## 28 Chargeable gains.

- (1) The amount of the gains accruing on the disposal of assets shall be computed in accordance with this Chapter, and subject to the other provisions of this Act [<sup>F35</sup>and sections 86 and 87 of the Finance Act 1982].
- (2) Every gain shall, except as otherwise expressly provided, be a chargeable gain.
- (3) Schedule 5 to this Act (which restricts the amount of chargeable gains accruing on the disposal of assets owned on 6th April 1965) shall have effect.

### Textual Amendments

**F35** Words inserted by [Finance Act 1982 \(c. 39, SIF 63:2\)](#), [s. 86\(4\)](#) in respect of disposals on or after 6 April 1982, or 1 April 1982 (companies)

### Modifications etc. (not altering text)

**C47** See— [Development Land Tax Act 1976 \(c. 24\)](#), [s. 34](#) and Sch. 6 Pt. I relating to deduction of development land tax disposal (which Act was repealed by [Finance Act 1985 \(c. 54, SIF 63:2\)](#), [ss. 93, 98\(6\)](#) and Sch. 27 Pt. X); [Income and Corporation Taxes Act 1988 \(c. 1, SIF, 63:1\)](#), [Sch. 26 para. 3\(2\)](#); [Trustee Savings Banks Act 1985 \(c. 58, SIF 110\)](#), [s. 5](#) and Sch. 2 paras. 3(1), 5

## 29 Losses.

- (1) Except as otherwise expressly provided, the amount of a loss accruing on a disposal of an asset shall be computed in the same way as the amount of a gain accruing on a disposal is computed.
- (2) Except as otherwise expressly provided, all the provisions of this Act which distinguish gains which are chargeable gains from those which are not, or which make part of a gain a chargeable gain, and part not, shall apply also to distinguish losses which are allowable losses from those which are not, and to make part of a loss an allowable loss, and part not; and references in this Act to an allowable loss shall be construed accordingly.
- (3) A loss accruing to a person in a year of assessment during no part of which he is resident or ordinarily resident in the United Kingdom shall not be an allowable loss for the purposes of this Act unless, under section 12 above (non-resident with U.K. branch or agency), he would be chargeable to capital gains tax in respect of a chargeable gain if there had been a gain instead of a loss on that occasion.
- (4) In accordance with section 14(1) above (foreign assets of person with foreign domicile), losses accruing on the disposal of assets situated outside the United Kingdom to an individual resident or ordinarily resident but not domiciled in the United Kingdom shall not be allowable losses.
- (5) Except as provided by section 49 below (death), an allowable loss accruing in a year of assessment shall not be allowable as a deduction from chargeable gains accruing in any earlier year of assessment, and relief shall not be given under this Act more than once in respect of any loss or part of a loss, and shall not be given under this Act if and so far as relief has been or may be given in respect of it under the Income Tax Acts.

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**Modifications etc. (not altering text)**

- C48** See— [Income and Corporation Taxes Act 1970 \(c. 10, SIF 63:1\), s. 280](#); [Finance Act 1970 \(c. 24, SIF 63:1, 2\), s. 29\(5\)](#) and Sch. 6; [Finance Act 1974 \(c. 30\), s. 40\(1\)\(3\)](#); [Finance Act 1981 \(c. 35, SIF 63:2\), s. 36](#); [Finance Act 1982 \(c. 39, SIF 63:2\), s. 86\(5\)](#); [Trustee Savings Banks Act 1985 \(c. 58, SIF 110\), s. 5](#) and Sch. 2 para. 4(4)
- C49** [S. 29\(3\)](#) modified by [Finance Act 1991 \(c. 31, SIF 63:2\), s. 89\(1\)](#), [Sch. 16](#), para. 3(2)(b).
- C50** See [Finance Act 1973 \(c. 51, SIF 63:1\), s. 38](#)

[<sup>F36</sup>29A

(1) Subject to the provisions of this Act a person's acquisition or disposal of an asset shall for the purposes of this Act be deemed to be for a consideration equal to the market value of the asset—

- (a) where he acquires or, as the case may be, disposes of the asset otherwise than by way of a bargain made at arm's length, and in particular where he acquires or disposes of it by way of gift or on a transfer into settlement by a settlor or by way of distribution from a company in respect of shares in the company, or
- (b) where he acquires or, as the case may be, disposes of the asset wholly or partly for a consideration that cannot be valued, or in connection with his own or another's loss of office or employment or diminution of emoluments, or otherwise in consideration for or recognition of his or another's services or past services in any office or employment or of any service rendered or to be rendered by him or another.

(2) [<sup>F37</sup>Except in the case specified in subsection (4) below], subsection (1) above shall not apply to the acquisition of an asset if—

- (a) there is no corresponding disposal of it, [<sup>F37</sup>or the corresponding disposal is made by an excluded person], and
- (b) there is no consideration in money or money's worth or the consideration is of an amount or value lower than the market value of the asset.

[ In any case where—

- <sup>F38</sup>(3) (a) apart from this subsection, subsection (1) above would apply to the acquisition of an asset, and
- (b) the condition in subsection (2)(b) above is fulfilled with respect to the acquisition, and
  - (c) the corresponding disposal is made on or after 6th April 1983 and before 6th April 1985, and
  - (d) the corresponding disposal is made by an excluded person who is within the charge to capital gains tax or corporation tax in respect of any chargeable gain accruing to him on the disposal,

then, if the person acquiring the asset and the excluded person so elect by notice in writing given to the Board within the period of two years beginning at the end of the chargeable period in which the corresponding disposal is made, subsection (1) above shall not apply to the acquisition or the corresponding disposal.

(4) There shall be made all such adjustments of capital gains tax or corporation tax (in respect of chargeable gains), whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the making of an election under subsection (3) above.]

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- (5) In this section “excluded person” means—
- (a) a person who is neither resident nor ordinarily resident in the United Kingdom; or
  - (b) a person who is wholly exempt from tax in respect of chargeable gains, or would be so exempt on making a claim for exemption; or
  - (c) a charity; or
  - (d) a registered friendly society; or
  - (e) a person making the disposal for the purposes of—
    - (i) a fund to which section 218 or 226(6) of [<sup>F39</sup>the Taxes Act 1970] or section 36 of the Finance Act 1980 applies, or
    - (ii) an exempt approved scheme or statutory scheme as defined in Chapter II of Part 11 of the Finance Act 1970.]

#### Textual Amendments

- F36** S. 29A inserted by Finance Act 1981 (c. 35, SIF 63:2), s. 90(1) in relation to acquisitions and disposals on or after 10 March 1981
- F37** Words repealed by Finance Act 1984 (c. 43, SIF 63:2), ss. 66(1), 128(6) and Sch. 23 Pt. VIII in relation to acquisitions and disposals on or after 6 April 1983
- F38** S. 29A(3)(4) substituted by Finance Act 1984 (c. 43, SIF 63:2), s. 66(2) in relation to acquisitions and disposals on or after 6 April 1983
- F39** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 15

#### Modifications etc. (not altering text)

- C51** S. 29A applied (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 18(4)
- C52** See— Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 185(3)(b); Finance Act 1988 (c. 39, SIF 63:1, 2), s. 68(4)
- C53** S. 29A(1) excluded (G.B.) by Ports Act 1991 (c. 52, SIF 58), s. 16(4)

### Computation of gains

#### 30 Introductory.

The following provisions of this Chapter, and Schedule 5 to this Act, shall have effect for computing for the purposes of this Act the amount of a gain accruing on the disposal of an asset.

#### 31 Consideration chargeable to tax on income.

- (1) There shall be excluded from the consideration for a disposal of assets taken into account in the computation under this Chapter of the gain accruing on that disposal any money or money’s worth charged to income tax as income of, or taken into account as a receipt in computing income or profits or gains or losses of, the person making the disposal for the purposes of the Income Tax Acts.
- (2) Subsection (1) above shall not be taken as excluding from the consideration so taken into account any money or money’s worth which is taken into account in the making of a balancing charge under the <sup>M7</sup>Capital Allowances Act [<sup>F40</sup>1990, including the provisions of the Taxes Act 1988 which are to be treated as contained in the 1990 Act

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but excluding Part III of the 1990 Act, or which is brought into account as the disposal value of machinery or plant under section 24 of the 1990 Act.]

- (3) This section shall not preclude the taking into account in a computation under this Chapter, as consideration for the disposal of an asset, of the capitalised value of a rentcharge (as in a case where a rentcharge is exchanged for some other asset) or of the capitalised value of a ground annual or feu duty, or of a right of any other description to income or to payments in the nature of income over a period, or to a series of payments in the nature of income.

- [<sup>F41</sup>(4) The reference in subsection (1) above to computing income or profits or gains or losses shall not be taken as applying to a computation of a company's income for the purposes of subsection (2) of section 76 of the Taxes Act 1988.]

#### Textual Amendments

**F40** Words substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\), s. 164\(1\)\(3\), Sch. 1 para. 3\(2\)](#)

**F41** [S. 31\(4\)](#) added by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\), Sch. 29 para. 17](#)

#### Modifications etc. (not altering text)

**C54** See— [Finance Act 1984 \(c. 43, SIF 63:2\), s. 36\(1\)](#) and Sch. 9 para. 1(1); [Finance Act 1985 \(c. 54\), s. 77](#) and Sch. 23 paras. 15(7), 33; [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\), s. 763\(2\)](#) and Sch. 28 para. 3(4); [Finance Act 1988 \(c. 39, SIF 63:1, 2\), s. 63](#)

**C55** See though [Finance Act 1978 \(c. 42\), s. 61\(3\)\(a\)](#)

**C56** [S. 31\(1\)](#) excluded (E.W.S) (16.1.1992) by S.I. 1992/58, art. 9, [Sch. 2 para.3](#)

**C57** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\), s. 777\(12\)](#)

#### Marginal Citations

**M7** [1990 c. 1.](#)

## 32 Expenditure: general.

- (1) Except as otherwise expressly provided, the sums allowable as a deduction from the consideration in the computation under this Chapter of the gain accruing to a person on the disposal of an asset shall be restricted to—
- the amount or value of the consideration, in money or money's worth, given by him or on his behalf wholly and exclusively for the acquisition of the asset, together with the incidental costs to him of the acquisition or, if the asset was not acquired by him, any expenditure wholly and exclusively incurred by him in providing the asset,
  - the amount of any expenditure wholly and exclusively incurred on the asset by him or on his behalf for the purpose of enhancing the value of the asset, being expenditure reflected in the state or nature of the asset at the time of the disposal, and any expenditure wholly and exclusively incurred by him in establishing, preserving or defending his title to, or to a right over, the asset,
  - the incidental costs to him of making the disposal.
- (2) For the purposes of this section and for the purposes of all other provisions of this Act the incidental costs to the person making the disposal of the acquisition of the asset or of its disposal shall consist of expenditure wholly and exclusively incurred by him for the purposes of the acquisition or, as the case may be, the disposal, being fees, commission or remuneration paid for the professional services of any surveyor



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or valuer, or auctioneer, or accountant, or agent or legal adviser and costs of transfer or conveyance (including stamp duty) together—

- (a) in the case of the acquisition of an asset, with costs of advertising to find a seller, and
  - (b) in the case of a disposal, with costs of advertising to find a buyer and costs reasonably incurred in making any valuation or apportionment required for the purposes of the computation under this Chapter, including in particular expenses reasonably incurred in ascertaining market value where required by this Act.
- (3) Except as provided by section 269 of [<sup>F42</sup>the Taxes Act 1970] (companies: interest charged to capital), no payment of interest shall be allowable under this section.
- (4) Any provision in 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.

[<sup>F43</sup>(5) Where—

- (a) a person acquires an asset for no consideration in money or money's worth or for a consideration of an amount or value lower than the market value of the asset, and is not treated under any provision of this Act as acquiring it for a consideration other than the actual consideration, and
- (b) there is a corresponding disposal of the asset by a person who is neither resident nor ordinarily resident in the United Kingdom, and
- (c) a charge to income tax, corporation tax or capital gains tax arises in respect of the acquisition,

the sums allowable under this section as a deduction in the computation made on the first-mentioned person's disposal of the asset shall include a sum equal to the amount in respect of which the charge arises.

- (6) The condition in paragraph (c) of subsection (5) above shall be taken to be satisfied where under section 80(3) of the Finance Act 1981 chargeable gains are treated as accruing to a person in any year by reason of his acquisition of an asset in that or an earlier year; and the reference in subsection (5) above to the amount in respect of which the charge arises shall be taken to be a reference to the amount of the gains treated as accruing to him.]

#### Textual Amendments

- F42** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 15**
- F43** [S. 32\(5\)\(6\)](#) inserted by [Finance Act 1981 \(c. 35, SIF 63:2\)](#), **s. 90(2)** in relation to acquisitions and disposals on or after 10 March 1981 and repealed by [Finance Act 1984 \(c. 43, SIF 63:2\)](#), **ss. 66(3), 128(6)** and [Sch. 23 Pt. VIII](#) where the disposal by the person who is neither resident nor ordinarily resident in the U.K. is made on or after 6 April 1985

#### Modifications etc. (not altering text)

- C58** See— [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 185(7)**; [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **s. 84**
- C59** [S. 32\(1\)\(a\)](#) modified (E.W.S.) (16.1.1992) by [S.I. 1992/58, art. 9](#), **Sch. 2 para. 4(1)(2)**  
[S. 32\(1\)\(b\)](#) modified (E.W.S.) (16.1.1992) by [S.I. 1992/58, art. 9](#), **Sch. 2 para. 5(1)**.
- C60** See— [Capital Gains Tax Act 1979 \(c. 14\)](#), **s. 132A**; [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **s. 63**; [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **ss. 68–70**

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- C61** S. 32(1)(b)(c) applied (with modifications) (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, **Sch. 2 para. 5(2)**
- C62** See— Finance (No. 2) Act 1975 (c. 45), s. 58(8); Development Land Tax Act 1976 (c. 24), s. 34(2) (which Act was repealed by Finance Act 1985 (c. 54, SIF 63:2), ss. 93, 98(6) and Sch. 27 Pt. X)

**[<sup>F44</sup>32A Expenditure: amounts to be included as consideration.**

- (1) Section 32(1)(a) above applies as if the relevant amount as defined in the following provisions of this section in the cases there specified had formed part of the consideration given by the person making the disposal for his acquisition of the assets in question.
- (2) Where an amount is chargeable to tax by virtue of section 162(5) of the Taxes Act 1988 in respect of shares or an interest in shares, then—
  - (a) on a disposal of the shares or interest, where that is the event giving rise to the charge; or
  - (b) in any case, on the first disposal of the shares or interest after the event, the relevant amount is a sum equal to the amount so chargeable.
- (3) If a gain chargeable to tax under section 135(1) or (6) of the Taxes Act 1988 is realised by the exercise of a right to acquire shares, the relevant amount is a sum equal to the amount of the gain so chargeable to tax.
- (4) Where an amount is chargeable to tax under section 138 of the Taxes Act 1988 on a person acquiring any shares or interest in shares, then on the first disposal (whether by him or another person) of the shares after his acquisition, the relevant amount is an amount equal to the amount so chargeable.
- (5) Where an amount was chargeable to tax under section 185(6) of the Taxes Act 1988 in respect of shares acquired in exercise of any such right as is mentioned in section 185(1) of that Act, the relevant sum in relation to those shares is an amount equal to the amount so chargeable.
- (6) Subsections (2), (3), (4) and (5) above shall be construed as one with sections 162, 135, 138 and 185 of the Taxes Act 1988 respectively.]

**Textual Amendments**

- F44** S. 32A added by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29 para. 18**

**33 Exclusion of expenditure by reference to tax on income.**

- (1) There shall be excluded from the sums allowable under section 32 above as a deduction in the computation under this Chapter any expenditure allowable as a deduction in computing the profits or gains or losses of a trade, profession or vocation for the purposes of income tax or allowable as a deduction in computing any other income or profits or gains or losses for the purposes of the Income Tax Acts and any expenditure which, although not so allowable as a deduction in computing any losses, would be so allowable but for an insufficiency of income or profits or gains; and this subsection applies irrespective of whether effect is or would be given to the deduction in computing the amount of tax chargeable or by discharge or repayment of tax or in any other way.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

(2) Without prejudice to the provisions of subsection (1) above there shall be excluded from the sums allowable under section 32 above as a deduction in the computation under this Chapter any expenditure which, if the assets, or all the assets to which the computation relates, were, and had at all times been, held or used as part of the fixed capital of a trade the profits or gains of which were (irrespective of whether the person making the disposal is a company or not) chargeable to income tax would be allowable as a deduction in computing the profits or gains or losses of the trade for the purposes of income tax.

[<sup>F45</sup>(3) No account shall be taken of any relief under Chapter II of Part IV of the Finance Act 1981 or under Schedule 5 to the Finance Act 1983, in so far as it is not withdrawn and relates to shares issued before 19th March 1986, in determining whether any sums are excluded by virtue of subsection (1) or (2) above from the sums allowable as a deduction in the computation of gains or losses for the purposes of this Act.]

#### Textual Amendments

**F45** S. 33(3) added by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 para. 19](#)

#### Modifications etc. (not altering text)

**C63** S. 33(1)(2) excluded (E.W.S.) (16.1.1992) by [S.I. 1992/58, art. 9, Sch. 2 para. 6](#)

**C64** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [s. 777\(12\)](#)

- [<sup>F46</sup>**33A**
- (1) Where there is a transfer of securities within the meaning of section 710 of the Taxes Act 1988 (accrued income scheme)—
- (a) if section 713(2)(a) or (3)(a) of that Act applies, section 31 above shall be disregarded in computing for capital gains tax purposes the gain accruing on the disposal concerned;
  - (b) if section 713(2)(b) or (3)(b) of that Act applies, section 33 above shall be disregarded in computing for capital gains tax purposes the gain accruing to the transferee if he disposes of the securities;
- but subsections (2) and (3) below shall apply.
- (2) Where the securities are transferred with accrued interest (within the meaning of section 711 of that Act)—
- (a) if section 713(2)(a) of that Act applies, an amount equal to the accrued amount (determined under that section) shall be excluded from the consideration mentioned in subsection (8) below;
  - (b) if section 713(2)(b) of that Act applies, an amount equal to that amount shall be excluded from the sums mentioned in subsection (9) below.
- (3) Where the securities are transferred without accrued interest (within the meaning of section 711 of that Act)—
- (a) if section 713(3)(a) of that Act applies, an amount equal to the rebate amount (determined under that section) shall be added to the consideration mentioned in subsection (8) below;
  - (b) if section 713(3)(b) of that Act applies, an amount equal to that amount shall be added to the sums mentioned in subsection (9) below.
- (4) Where section 716 of that Act applies—

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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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- (a) if subsection (2) or (3) of that section applies, section 31 above shall be disregarded in computing for capital gains tax purposes the gain accruing on the disposal concerned, but the relevant amount shall be excluded from the consideration mentioned in subsection (8) below; and
  - (b) if subsection (4) of that section applies and the securities were transferred as mentioned in subsection (1) of that section after 18th March 1986, section 33 above shall be disregarded in computing for capital gains tax purposes the gain accruing on the disposal concerned, but the relevant amount shall be excluded from the sums mentioned in subsection (9) below.
- (5) In subsection (4) above “the relevant amount” means an amount equal to—
- (a) if paragraphs (b) and (c) below do not apply, the amount of the unrealised interest in question;
  - (b) if section 719 of the Taxes Act 1988 applies—
    - (i) in a case falling within subsection (4)(a) above, amount A (within the meaning of section 719);
    - (ii) in a case falling within subsection (4)(b) above, amount C (within the meaning of section 719);
  - (c) if the unrealised interest is subject to the provisions of regulations under section 476(1) of that Act and would not on being paid (to whatever person) be a gross payment within the meaning of those regulations, the grossed up equivalent of the unrealised interest (calculated in accordance with section 726 of that Act).
- Paragraphs (a), (b) and (c) above shall be construed as one with sections 716, 719 and 726 respectively.
- (6) In relation to any securities which by virtue of subsection (7) below are treated for the purposes of this sub-paragraph as having been transferred, subsections (2) and (3) above shall have effect as if for “applies” (in each place where it occurs) there were substituted “would apply if the disposal were a transfer”.
- (7) Where there is a disposal of securities for capital gains tax purposes which is not a transfer for the purposes of section 710 of the Taxes Act 1988 but, if it were such a transfer, one or more of the following paragraphs would apply, namely, paragraphs (a) and (b) of section 713(2) and paragraphs (a) and (b) of section 713(3) of that Act, the securities shall be treated—
- (a) for the purposes of subsection (6) above, as transferred on the day of the disposal, and
  - (b) for the purposes of subsections (2) and (3) above, as transferred with accrued interest if, had the disposal been a transfer for the purposes of section 710, it would have been a transfer with accrued interest and as transferred without accrued interest if, had the disposal been such a transfer, it would have been a transfer without accrued interest.
- (8) The consideration is the consideration for the disposal of the securities transferred which is taken into account in the computation for capital gains tax purposes of the gain accruing on the disposal.
- (9) The sums are the sums allowable to the transferee as a deduction from the consideration in the computation for capital gains tax purposes of the gain accruing to him if he disposes of the securities.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (10) Where on a conversion or exchange of securities a person is treated as entitled to a sum under subsection (2)(a) of section 713 of the Taxes Act 1988 an amount equal to the accrued amount (determined under that section) shall, for capital gains tax purposes, be treated as follows—
- (a) to the extent that it does not exceed the amount of any consideration which the person receives (or is deemed to receive) or becomes entitled to receive on the conversion or exchange (other than his new holding), it shall be treated as reducing that consideration; and
  - (b) to the extent that it does exceed that amount, it shall be treated as consideration which the person gives on the conversion or exchange;
- and where on a conversion or exchange of securities a person is treated as entitled to relief under subsection (3)(a) of that section an amount equal to the rebate amount (determined under that section) shall, for capital gains tax purposes, be treated as consideration which the person receives on the conversion or exchange.
- (11) In subsection (10) above “conversion” means conversion within the meaning of section 82 below and “exchange” means an exchange which by virtue of Chapter 11 of Part IV of this Act does not involve a disposal.]

#### Textual Amendments

**F46** S. 33A added by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 para. 20](#)

### 34 Restriction of losses by reference to capital allowances and renewals allowances.

- (1) Section 33 above shall not require the exclusion from the sums allowable as a deduction in the computation under this Chapter of any expenditure as being expenditure in respect of which a capital allowance or renewals allowance is made, but the amount of any losses accruing on the disposal of an asset shall be restricted by reference to capital allowances and renewals allowances as follows.
- (2) In the computation under this Chapter of the amount of a loss accruing to the person making the disposal, there shall be excluded from the sums allowable as a deduction any expenditure to the extent to which any capital allowance or renewals allowance has been or may be made in respect of it.
- (3) If the person making the disposal acquired the asset—
  - (a) by a transfer by way of sale in relation to which an election under <sup>[F47]</sup>section 158 of the Capital Allowances Act 1990] was made, or
  - (b) by a transfer to which <sup>[F47]</sup>section 78(2)] of that Act applies,
 (being enactments under which a transfer is treated for the purposes of capital allowances as being made at written down value), the preceding provisions of this section shall apply as if any capital allowance made to the transferor in respect of the asset had (except so far as any loss to the transferor was restricted under those provisions) been made to the person making the disposal (that is the transferee); and where the transferor acquired the asset by such a transfer, capital allowances which by virtue of this subsection can be taken into account in relation to the transferor shall also be taken into account in relation to the transferee (that is the person making the disposal), and so on for any series of transfers before the disposal.
- (4) In this section “capital allowance” means—

*Status: Point in time view as at 25/07/1991.*

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- (a) any allowance under the Capital Allowances Act [<sup>F48</sup>1990, including the provisions of the Taxes Act 1988 which are to be treated as contained in the 1990 Act], other than an allowance under [<sup>F49</sup>section 33(1) of the Taxes Act 1988] (relief for cost of maintenance of agricultural land),
  - (aa) .....<sup>F50</sup>
  - (b) any relief given under section [<sup>F51</sup>30] of [<sup>F52</sup>the Taxes Act 1988] (expenditure on sea walls), and
  - (c) any deduction in computing profits or gains allowable under section [<sup>F51</sup>91] of [<sup>F52</sup>the Taxes Act 1988] (cemeteries).
- (5) In this section “renewals allowance” means a deduction allowable in computing the profits or gains of a trade, profession or vocation for the purpose of income tax by reference to the cost of acquiring an asset for the purposes of the trade, profession or vocation in replacement of another asset, and for the purposes of this Chapter a renewals allowance shall be regarded as a deduction allowable in respect of the expenditure incurred on the asset which is being replaced.
- (6) The amount of capital allowances to be taken into account under this section in relation to a disposal include any allowances falling to be made by reference to the event which is the disposal, and there shall be deducted from the amount of the allowances the amount of any balancing charge to which effect has been or is to be given by reference to the event which is the disposal, or any earlier event, . . .<sup>F53</sup>
- (7) Where the disposal is of machinery or plant in relation to expenditure on which allowances or charges have been made under [<sup>F54</sup>Part II of the Capital Allowances Act 1990 and neither section 79 (assets used only partly for trade purposes) nor section 80 (wear and tear subsidies) of that Act] applies, the capital allowances to be taken into account under this section are to be regarded as equal to the difference between the capital expenditure incurred, or treated as incurred, under [<sup>F55</sup>that Part] on the provision of the machinery or plant by the person making the disposal and the disposal value required to be brought into account in respect of the machinery or plant.

#### Textual Amendments

- F47** Words substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(1)(3), **Sch. 1 para. 3(3)(a)**
- F48** Words substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(1)(3), **Sch. 1 para. 3(3)(b)**
- F49** Words substituted by [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), s. 146 and Sch. 13 para. 16
- F50** S. 34(4)(aa) inserted by [Finance \(No. 2\) Act 1983 \(c. 49\)](#), s. 6(3) and repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), ss. 82, 164(4)(5), **Sch. 2**
- F51** Figure substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32
- F52** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32
- F53** Words repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), ss. 82, 164(4)(5), **Sch. 2**
- F54** Words substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(1)(3), **Sch. 1 para. 3(3)(c)(i)**
- F55** Words substituted by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), s. 164(1)(3), **Sch. 1 para. 3(3)(c)(iii)**

#### Modifications etc. (not altering text)

- C65** See [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), ss. 62, 63, 96 and Sch. 8 para. 3

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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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### 35 Part disposals.

- (1) Where a person disposes of an interest or right in or over an asset, and generally wherever on the disposal of an asset any description of property derived from that asset remains undisposed of, the sums which under paragraphs (a) and (b) of section 32(1) above are attributable to the asset shall, both for the purposes of the computation under this chapter of the gain accruing on the disposal and for the purpose of applying this Chapter in relation to the property which remains undisposed of, be apportioned.
- (2) The apportionment shall be made by reference—
- (a) to the amount or value of the consideration for the disposal on the one hand (call that amount or value A), and
  - (b) to the market value of the property which remains undisposed of on the other hand (call that market value B),

and accordingly the fraction of the said sums allowable as a deduction in computing under this Chapter the amount of the gain accruing on the disposal shall be

$$\frac{T(1)}{L}$$

and the remainder shall be attributed to the property which remains undisposed of.

- (3) Any apportionment to be made in pursuance of this section shall be made before operating the provisions of section 34 above and if, after a part disposal, there is a subsequent disposal of an asset the capital allowances or renewals allowances to be taken into account in pursuance of that section in relation to the subsequent disposal shall, subject to subsection (4) below, be those referable to the sums which under paragraphs (a) and (b) of section 32(1) above are attributable to the asset whether before or after the part disposal, but those allowances shall be reduced by the amount (if any) by which the loss on the earlier disposal was restricted under the provisions of section 34 above.
- (4) This section shall not be taken as requiring the apportionment of any expenditure which, on the facts, is wholly attributable to what is disposed of, or wholly attributable to what remains undisposed of.
- (5) It is hereby declared that this section, and all other provisions for apportioning on a part disposal expenditure which is deductible in computing a gain, are to be operated before the operation of, and without regard to—
- (a) section 44(1) below (disposals between husband and wife),
  - (b) sections 115 to 121 below (replacement of business assets), but without prejudice to the provisions of subsection (8) of the said section 115,
  - (c) section 273(1) of [<sup>F56</sup>the Taxes Act 1970] (transfers within a group of companies), or
  - (d) any other enactment making an adjustment to secure that neither a gain nor a loss occurs on a disposal.



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### Textual Amendments

**F56** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 para. 15](#)

### Modifications etc. (not altering text)

**C66** [S. 35](#) applied (E.W.S.) (16.1.1992) by [S.I. 1992/58, art. 24\(3\)](#)

**C67** [S. 35](#) excluded by [Finance Act 1991 \(c. 31, SIF 63:2\)](#), [s. 78\(3\)\(a\)](#).

**C68** See [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), [ss. 63, 96](#) and [Sch. 8 para. 3](#)

**C69** See— [Finance Act 1982 \(c. 39, SIF 63:2\)](#), [s. 86](#) and [Sch. 13 Part I para. 1](#); [Finance Act 1985 \(c. 54\)](#), [s. 68\(3\)\(b\)](#) and [Sch. 19 para. 10](#)

**C70** See [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), [s. 96](#) and [Sch. 8 para. 4](#)

## 36 Assets derived from other assets.

If and so far as, in a case where assets have been merged or divided or have changed their nature or rights or interests in or over assets have been created or extinguished, the value of an asset is derived from any other asset in the same ownership, an appropriate proportion of the sums allowable as a deduction in a computation under this Chapter in respect of the other asset under paragraphs (a) and (b) of section 32(1) above shall, both for the purpose of the computation of a gain accruing on the disposal of the first-mentioned asset and, if the other asset remains in existence, on a disposal of that other asset, be attributed to the first-mentioned asset.

### Modifications etc. (not altering text)

**C71** See— [Finance Act 1985 \(c. 54\)](#), [s. 68\(6\)](#); [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), [ss. 96, 97](#), [Schs. 8 para. 5](#) and [9 para. 3\(2\)](#)

## 37 Wasting assets.

- (1) In this Chapter “wasting asset” means an asset with a predictable life not exceeding fifty years but so that—
  - (a) freehold land shall not be a wasting asset whatever its nature, and whatever the nature of the buildings or works on it,
  - (b) “life”, in relation to any tangible movable property, means useful life, having regard to the purpose for which the tangible assets were acquired or provided by the person making the disposal,
  - (c) plant and machinery shall in every case be regarded as having a predictable life of less than fifty years, and in estimating that life it shall be assumed that its life will end when it is finally put out of use as being unfit for further use, and that it is going to be used in the normal manner and to the normal extent and is going to be so used throughout its life as so estimated,
  - (d) a life interest in settled property shall not be a wasting asset until the predictable expectation of life of the life tenant is fifty years or less, and the predictable life of life interests in settled property and of annuities shall be ascertained from actuarial tables approved by the Board.
- (2) In this Chapter “the residual or scrap value”, in relation to a wasting asset, means the predictable value, if any, which the wasting asset will have at the end of its predictable life as estimated in accordance with this section.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (3) The question what is the predictable life of an asset, and the question what is its predictable residual or scrap value at the end of that life, if any, shall, so far as those questions are not immediately answered by the nature of the asset, be taken, in relation to any disposal of the asset, as they were known or ascertainable at the time when the asset was acquired or provided by the person making the disposal.

### 38 Wasting assets: straightline restriction of allowable expenditure.

- (1) In the computation under this Chapter of the gain accruing on the disposal of a wasting asset it shall be assumed—
- that any expenditure attributable to the asset under section 32(1)(a) above after deducting the residual or scrap value, if any, of the asset, is written off at a uniform rate from its full amount at the time when the asset is acquired or provided to nothing at the end of its life, and
  - that any expenditure attributable to the asset under section 32(1)(b) above is written off from the full amount of that expenditure at the time when that expenditure is first reflected in the state or nature of the asset to nothing at the end of its life,
- so that an equal daily amount is written off day by day.
- (2) Thus, calling the predictable life of a wasting asset at the time when it was acquired or provided by the person making the disposal L, the period from that time to the time of disposal T(1), and, in relation to any expenditure attributable to the asset under section 32(1)(b) above, the period from the time when that expenditure is first reflected in the state or nature of the asset to the said time of disposal T(2), there shall be excluded from the computation under this Chapter—
- out of the expenditure attributable to the asset under section section 32(1)(a) above a fraction

$$\frac{T(2)}{L - (T(1) - T(2))}$$

of an amount equal to the amount of that expenditure minus the residual or scrap value, if any, of the asset, and

- out of the expenditure attributable to the asset under section section 32(1)(b) above a fraction

$$\frac{A}{B}$$

of the amount of the expenditure.

- (3) If any expenditure attributable to the asset under section 32(1)(b) above creates or increases a residual or scrap value of the asset, the provisions of subsection (1)(a) above shall be applied so as to take that into account.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### **39 Wasting assets qualifying for capital allowances.**

- (1) Section 38 above shall not apply in relation to a disposal of an asset—
  - (a) which, from the beginning of the period of ownership of the person making the disposal to the time when the disposal is made, is used and used solely for the purposes of a trade, profession or vocation and in respect of which that person has claimed or could have claimed any capital allowance in respect of any expenditure attributable to the asset under paragraph (a) or paragraph (b) of section 32(1) above, or
  - (b) on which the person making the disposal has incurred any expenditure which has otherwise qualified in full for any capital allowance.
- (2) In the case of the disposal of an asset which, in the period of ownership of the person making the disposal, has been used partly for the purposes of a trade, profession or vocation and partly for other purposes, or has been used for the purposes of a trade, profession or vocation for part of that period, or which has otherwise qualified in part only for capital allowances—
  - (a) the consideration for the disposal, and any expenditure attributable to the asset by paragraph (a) or paragraph (b) of section 32(1) above shall be apportioned by reference to the extent to which that expenditure qualified for capital allowances, and
  - (b) the computation under this Chapter shall be made separately in relation to the apportioned parts of the expenditure and consideration, and
  - (c) section 38 above shall not apply for the purposes of the computation in relation to the part of the consideration apportioned to use for the purposes of the trade, profession or vocation, or to the expenditure qualifying for capital allowances, and
  - (d) if an apportionment of the consideration for the disposal has been made for the purposes of making any capital allowance to the person making the disposal or for the purpose of making any balancing charge on him, that apportionment shall be employed for the purposes of this section, and
  - (e) subject to paragraph (d) above, the consideration for the disposal shall be apportioned for the purposes of this section in the same proportions as the expenditure attributable to the asset is apportioned under paragraph (a) above.

#### **Modifications etc. (not altering text)**

**C72** See Finance Act 1988 (c. 39, SIF 63;1, 2), s. 96 and Sch. 8 para. 3

### **40 Consideration due after time of disposal.**

- (1) If the consideration, or part of the consideration, taken into account in the computation under this Chapter is payable by instalments over a period beginning not earlier than the time when the disposal is made, being a period exceeding eighteen months, 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.
- (2) In the computation under this Chapter consideration for the disposal shall be brought into account without any discount for postponement of the right to receive any part of it

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

and, in the first instance, without regard to a risk of any part of the consideration being irrecoverable or to the right to receive any part of the consideration being contingent; and if any part of the consideration so brought into account is subsequently shown to the satisfaction of the inspector to be irrecoverable, such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.

**Modifications etc. (not altering text)**

C73 S. 40(2) applied (with modifications) (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para. 7

#### 41 Contingent liabilities.

- (1) In the first instance no allowance shall be made in the computation under this Chapter—
- (a) in the case of a disposal by way of assigning a lease of land or other property, for any liability remaining with, or assumed by, the person making the disposal by way of assigning the lease which is contingent on a default in respect of liabilities thereby or subsequently assumed by the assignee under the terms and conditions of the lease,
  - (b) for any contingent liability of the person making the disposal in respect of any covenant for quiet enjoyment or other obligation assumed as vendor of land, or of any estate or interest in land, or as a lessor,
  - (c) for any contingent liability in respect of a warranty or representation made on a disposal by way of sale or lease of any property other than land.
- (2) If it is subsequently shown to the satisfaction of the inspector that any such contingent liability has become enforceable, and is being or has been enforced, such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.

**Modifications etc. (not altering text)**

C74 S. 41(2) applied (with modifications) (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para. 7

#### 42 Expenditure reimbursed out of public money.

There shall be excluded from the computation under this Chapter any expenditure which has been or is to be met directly or indirectly by the Crown or by any Government, public or local authority whether in the United Kingdom or elsewhere.

**Modifications etc. (not altering text)**

C75 See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 400(6)

#### 43 Supplemental.

- (1) No deduction shall be allowable in a computation under this Chapter more than once from any sum or from more than one sum.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (2) References in this Chapter to sums taken into account as receipts or as expenditure in computing profits or gains or losses for the purposes of income tax shall include references to sums which would be so taken into account but for the fact that any profits or gains of a trade, profession, employment or vocation are not chargeable to income tax or that losses are not allowable for those purposes.
- (3) In this Chapter references to income or profits charged or chargeable to tax include references to income or profits taxed or as the case may be taxable by deduction at source.
- (4) For the purposes of any computation under this Chapter any necessary apportionments shall be made of any consideration or of any expenditure and the method of apportionment adopted shall, subject to the express provisions of this Chapter, be such method as appears to the inspector or on appeal the Commissioners concerned to be just and reasonable.
- (5) In this Chapter “capital allowance” and “renewals allowance” have the meanings given by subsections (4) and (5) of section 34 above.

**Modifications etc. (not altering text)**

**C76 S. 43(4)** applied (with modifications) (E.W.S.) (16.1.1992) by **S.I. 1992/58, art. 9, Sch. 2 para. 8(1)**

## PART III

### PERSONS AND TRUSTS

#### *Married persons*

#### **44 Husband and wife.**

- (1) If, in any year of assessment, and in the case of a woman who in that year of assessment is a married woman living with her husband, the man disposes of an asset to the wife, or the wife disposes of an asset to the man, both shall be treated 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.
- (2) This section shall not apply—
  - (a) if until the disposal the asset formed part of trading stock of a trade carried on by the one making the disposal, or if the asset is acquired as trading stock for the purposes of a trade carried on by the one acquiring the asset, or
  - (b) if the disposal is by way of donatio mortis causa,but this section shall have effect notwithstanding the provisions of section 62 (transactions between connected persons) or section 122 (appropriations to and from stock in trade) below, or of any other provisions of this Act fixing the amount of the consideration deemed to be given on a disposal or acquisition.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Modifications etc. (not altering text)

**C77** See also disregard of disposals to which s. 44 applies for purposes of— [Finance Act 1981 \(c. 35, SIF 63:2\)](#), [ss. 64\(1\), 79\(3\)](#); [Finance Act 1982 \(c. 39, SIF 63:2\)](#), [s. 86](#) and Sch. 13 para. 3(3); [Finance Act 1983 \(c. 28\)](#), [s. 26](#) and Sch. 5 para. 16(1); [Finance Act 1985 \(c. 54\)](#), [s. 71\(2\)](#); [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), [s. 96](#) and Sch. 8 paras. 1, 2

#### [<sup>F57</sup> 45] **Tax on married woman's gains.**

- (1) Subject to this section, the amount of capital gains tax on chargeable gains accruing to a married woman in—
  - (a) a year of assessment, or
  - (b) any part of a year of assessment, being a part beginning with 6th April,
 during which she is a married woman living with her husband shall be assessed and charged on the husband and not otherwise but this subsection shall not affect the amount of capital gains tax chargeable on a man apart from this subsection nor result in the additional amount of capital gains tax charged on a man by virtue of this subsection being different from the amount which would otherwise have remained chargeable on the married woman.
- (2) Subsection (1) above shall not apply in relation to a husband and wife in any year of assessment if, before 6th July in the year next following that year of assessment, an application is made by either the husband or wife, and such an application duly made shall have effect not only as respects the year of assessment for which it is made but also for any subsequent year of assessment:  
 Provided that the applicant may give, for any subsequent year of assessment, a notice to withdraw that application and where such a notice is given the application shall not have effect with respect to the year for which the notice is given or any subsequent year.  
  
 A notice of withdrawal under this proviso shall not be valid unless it is given within the period for making, for the year for which the notice is given, an application similar to that to which the notice relates.
- (3) Returns under section 8 or 42(5) of the <sup>M8</sup>Taxes Management Act 1970 as respects chargeable gains accruing to a married woman may be required either from her or, if her husband is liable under subsection (1) above, from him.
- (4) Section [<sup>F58</sup>285] (collection from wife of tax assessed on husband attributable to her income) and section [<sup>F58</sup>286] (right of husband to disclaim liability for tax on deceased wife's income) of [<sup>F59</sup>the Taxes Act 1988] shall apply with any necessary modifications in relation to capital gains tax as they apply in relation to income tax.
- (5) An application or notice of withdrawal under this section shall be in such form and made in such manner as may be prescribed by the Board.]

#### Textual Amendments

**F57** S. 45 repealed by [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), [s. 148](#) and Sch. 14 Pt. VIII from 1990–91

**F58** Figure substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**F59** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and [32](#)

**Modifications etc. (not altering text)**

**C78** See [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), [s. 99](#)

**C79** [S. 45\(2\)](#) modified by [S.I. 1991/851, reg. 9, Sch.2](#).

**C80** [S. 45\(2\)](#) modified (28.3.1992) by [S.I. 1992/511, reg. 9, Sch.2](#)

**Marginal Citations**

**M8** [1970 c. 9](#).

*Trustees, nominees and personal representatives*

**46 Nominees and bare trustees.**

- (1) In relation to assets held by a person as nominee for another person, or as trustee for another person absolutely entitled as against the trustee, or for any person who would be so entitled but for being an infant or other person under disability (or for two or more persons who are or would be jointly so entitled), this Act shall apply as if the property were vested in, and the acts of the nominee or trustee in relation to the assets were the acts of, the person or persons for whom he is the nominee or trustee (acquisitions from or disposals to him by that person or persons being disregarded accordingly).
- (2) It is hereby declared that references in this Act to any asset held by a person as trustee for another person absolutely entitled as against the trustee are references to a case where that other person has the exclusive right, subject only to satisfying any outstanding charge, lien or other right of the trustees to resort to the asset for payment of duty, taxes, costs or other outgoings, to direct how that asset shall be dealt with.

**Modifications etc. (not altering text)**

**C81** See [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), [s. 145](#) and [Sch. 12 para. 5\(4\)\(c\)](#)

**47 Expenses in administration of estates and trusts.**

- (1) In the case of a gain accruing to a person on the disposal of, or of a right or interest in or over, an asset to which he became absolutely entitled as legatee or as against the trustees of settled property—
  - (a) any expenditure within section 32(2) above incurred by him in relation to the transfer of the asset to him by the personal representatives or trustees, and
  - (b) any such expenditure incurred in relation to the transfer of the asset by the personal representatives or trustees,shall be allowable as a deduction in the computation under Chapter II of Part II above of the gain accruing to that person on the disposal.
- (2) In this Act, unless the context otherwise requires, “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 person taking under a donatio mortis causa shall be treated (except for the purposes of section 49 below (death)) as a legatee and his acquisition as made at the time of the donor’s death.



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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (3) For the purposes of the definition of “legatee” above, and of any reference in this Act to a person acquiring an asset “as legatee”, property taken under a testamentary disposition or on an intestacy or partial intestacy includes any asset appropriated by the personal representatives in or towards satisfaction of a pecuniary legacy or any other interest or share in the property devolving under the disposition or intestacy.

#### 48 Liability for tax.

- (1) Capital gains tax chargeable in respect of chargeable gains accruing to the trustees of a settlement or capital gains tax due from the personal representatives of a deceased person may be assessed and charged on and in the name of any one or more of those trustees or personal representatives, but where an assessment is made in pursuance of this subsection otherwise than on all the trustees or all the personal representatives the persons assessed shall not include a person who is not resident or ordinarily resident in the United Kingdom.
- (2) Subject to section 46 above, chargeable gains accruing to the trustees of a settlement or to the personal representatives of a deceased person, and capital gains tax chargeable on or in the name of such trustees or personal representatives, shall not be regarded for the purposes of this Act as accruing to, or chargeable on, any other person, nor shall any trustee or personal representative be regarded for the purposes of this Act as an individual.

#### Modifications etc. (not altering text)

C82 See Taxes Management Act 1970 (c. 9, SIF 63:1), s. 77(2)

### *Death*

#### 49 Death: general provisions.

- (1) For the purposes of this Act the assets of which a deceased person was competent to dispose—
- (a) shall be deemed to be acquired on his death by the personal representatives or other person on whom they devolve for a consideration equal to their market value at the date of the death, but
  - (b) shall not be deemed to be disposed of by him on his death (whether or not they were the subject of a testamentary disposition).
- (2) Allowable losses sustained by an individual in the year of assessment in which he dies may, so far as they cannot be deducted from chargeable gains accruing in that year, be deducted from chargeable gains accruing to the deceased in the three years of assessment preceding the year of assessment in which the death occurs, taking chargeable gains accruing in a later year before those accruing in an earlier year.
- (3) In relation to property forming part of the estate of a deceased person the personal representatives shall for the purposes of this Act be treated as being a single and continuing body of persons (distinct from the persons who may from time to time be the personal representatives), and that body shall be treated as having the deceased’s residence, ordinary residence, and domicile at the date of death.

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (4) On a person acquiring any asset as legatee (as defined in section 47 above)—
  - (a) no chargeable gain shall accrue to the personal representatives, and
  - (b) the legatee shall be treated as if the personal representatives' acquisition of the asset had been his acquisition of it.
- (5) Notwithstanding [<sup>F60</sup>section 29A(1)] above (gifts) no chargeable gain shall accrue to any person on his making a disposal by way of donatio mortis causa.
- (6) Subject to subsections (7) and (8) below, where within the period of two years after a person's death any of the dispositions (whether effected by will, under the law relating to intestacy or otherwise) of the property of which he was competent to dispose are varied, or the benefit conferred by any of those dispositions is disclaimed, by an instrument in writing made by the persons or any of the persons who benefit or would benefit under the dispositions—
  - (a) the variation or disclaimer shall not constitute a disposal for the purposes of this Act, and
  - (b) this section shall apply as if the variation had been effected by the deceased or, as the case may be, the disclaimed benefit had never been conferred.
- (7) Subsection (6) above does not apply to a variation unless the person or persons making the instrument so elect by written notice given to the Board within six months after the date of the instrument or such longer time as the Board may allow.
- (8) Subsection (6) above does not apply to a variation or disclaimer made for any consideration in money or money's worth other than consideration consisting of the making of a variation or disclaimer in respect of another of the dispositions.
- (9) Subsection (6) above applies whether or not the administration of the estate is complete or the property has been distributed in accordance with the original dispositions.
- (10) In this section references to assets of which a deceased person was competent to dispose are references to assets of the deceased which (otherwise than in right of a power of appointment or of the testamentary power conferred by statute to dispose of entailed interests) he could, if of full age and capacity, have disposed of by his will, assuming that all the assets were situated in England and, if he was not domiciled in the United Kingdom, that he was domiciled in England, and include references to his severable share in any assets to which, immediately before his death, he was beneficially entitled as a joint tenant.

#### Textual Amendments

**F60** Words substituted by [Finance Act 1981 \(c. 35, SIF 63:2\)](#), [s. 90\(3\)\(a\)](#) in relation to acquisitions and disposals on or after 10 March 1981

#### Modifications etc. (not altering text)

**C83** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [s. 757\(4\)](#)

**C84** See [Development Land Tax Act 1976 \(c. 24\)](#), [s. 34](#) and Sch. 6 para. 2(2) (which Act was repealed by [Finance Act 1985 \(c. 54, SIF 63:2\)](#), [ss. 93, 98\(6\)](#) and Sch. 27 Pt. X)

**C85** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 4 para. 7\(2\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

## 50 Death: application of law in Scotland.

- (1) The provisions of this Act, so far as relating to the consequences of the death of an heir of entail in possession of any property in Scotland subject to an entail, whether sui juris or not, or of a proper liferenter of any property, shall have effect subject to the provisions of this section.
- (2) For the purposes of this Act, on the death of any such heir or liferenter the heir of entail next entitled to the entailed property under the entail or, as the case may be, the person (if any) who, on the death of the liferenter, becomes entitled to possession of the property as fiar shall be deemed to have acquired all the assets forming part of the property at the date of the deceased's death for a consideration equal to their market value at that date.

### *Settlements*

## 51 Meaning of “settled property”.

In this Act, unless the context otherwise requires, “settled property” means any property held in trust other than property to which section 46 above (nominees and bare trustees) applies.

This definition has effect subject to section 61(4) (insolvents' assets) and 93 (unit trusts) below.

### **Modifications etc. (not altering text)**

**C86** See Finance Act 1988 (c. 39, SIF 63;1, 2), ss. 100, 109 and Sch. 10

## 52 Trustees of settlements.

- (1) In relation to settled property, the trustees of the settlement shall for the purposes of this Act be treated as being a single and continuing body of persons (distinct from the persons who may from time to time be the trustees), and that body shall be treated as being resident and ordinarily resident in the United Kingdom unless the general administration of the trusts is ordinarily carried on outside the United Kingdom and the trustees or a majority of them for the time being are not resident or not ordinarily resident in the United Kingdom.
- (2) Notwithstanding subsection (1) above, a person carrying on a business which consists of or includes the management of trusts, and acting as trustee of a trust in the course of that business, shall be treated in relation to that trust as not resident in the United Kingdom if the whole of the settled property consists of or derives from property provided by a person not at the time (or, in the case of a trust arising under a testamentary disposition or on an intestacy or partial intestacy, at his death) domiciled, resident or ordinarily resident in the United Kingdom, and if in such a case the trustees or a majority of them are or are treated in relation to that trust as not resident in the United Kingdom, the general administration of the trust shall be treated as ordinarily carried on outside the United Kingdom.
- (3) For the purposes of this section, and of sections 54(1) and 55(1) below, where part of the property comprised in a settlement is vested in one trustee or set of trustees and part in another (and in particular where settled land within the meaning of the <sup>M9</sup>Settled

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Land Act 1925 is vested in the tenant for life and investments representing capital money are vested in the trustees of the settlement), they shall be treated as together constituting and, in so far as they act separately, as acting on behalf of a single body of trustees.

- (4) If tax assessed on the trustees, or any one trustee, of a settlement in respect of a chargeable gain accruing to the trustees is not paid within six months from the date when it becomes payable by the trustees or trustee, and before or after the expiration of that period of six months the asset in respect of which the chargeable gain accrued, or any part of the proceeds of sale of that asset, is transferred by the trustees to a person who as against the trustees is absolutely entitled to it, that person may at any time within two years from the time when the tax became payable be assessed and charged (in the name of the trustees) to an amount of capital gains tax not exceeding tax chargeable on an amount equal to the amount of the chargeable gain and, where part only of the asset or of the proceeds was transferred, not exceeding a proportionate part of that amount.

**Modifications etc. (not altering text)**

**C87** See Finance Act 1988 (c. 39, SIF 63:1, 2), ss. **100**, 109 and Sch. 10

**C88** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. **220(2)**

**Marginal Citations**

**M9** 1925 c. 18.

**53 Gifts in settlement.**

A [<sup>F61</sup>transfer into] settlement, whether revocable or irrevocable, is a disposal of the entire property thereby becoming settled property notwithstanding that the [<sup>F62</sup>transferor] has some interest as a beneficiary under the settlement and notwithstanding that he is a trustee, or the sole trustee, of the settlement.

**Textual Amendments**

**F61** Words substituted by Finance Act 1981 (c. 35, SIF 63:2), s. **86** from 10 March 1981

**F62** Word substituted by Finance Act 1981 (c. 35, SIF 63:2), s. **86** from 10 March 1981

**Modifications etc. (not altering text)**

**C89** See Finance Act 1988 (c. 39, SIF 63:1, 2), ss. **100**, 109 and Sch. 10

**54 Person becoming absolutely entitled to settled property.**

- (1) On the occasion when a person becomes absolutely entitled to any settled property as against the trustee all the assets forming part of the settled property to which he becomes so entitled shall be deemed to have been disposed of by the trustee, and immediately reacquired by him in his capacity as a trustee within section 46(1) above, for a consideration equal to their market value.
- (2) On the occasion when a person becomes absolutely entitled to any settled property as against the trustee, any allowable loss which has accrued to the trustee in respect of property which is, or is represented by, the property to which that person so becomes

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entitled (including any allowable loss carried forward to the year of assessment in which that occasion falls), being a loss which cannot be deducted from chargeable gains accruing to the trustee in that year, but before that occasion, shall be treated as if it were an allowable loss accruing at that time to the person becoming so entitled, instead of to the trustee.

[<sup>F63</sup>(3) References in this section to the case where a person becomes absolutely entitled to settled property as against the trustee shall be taken to include references to the case where a person would become so entitled but for being an infant or other person under disability.]

#### Textual Amendments

**F63** S. 54(3) added by Finance Act 1981 (c. 35, SIF 63:2), s. 87(1) in respect of occurrences on or after 10 March 1981

#### Modifications etc. (not altering text)

**C90** See Finance Act 1988 (c. 39, SIF 63;1, 2), ss. 100, 109 and Sch. 10

**C91** See Capital Gains Tax Act 1979 (c. 14), s. 144A

## 55 Termination of life interest etc.

- (1) [<sup>F64</sup>On the termination, on the death of the person entitled to it, of a life interest in possession in all or any part of settled property—
- (a) the whole or a corresponding part of each of the assets forming part of the settled property and not ceasing at that time to be settled property shall be deemed for the purposes of this Act at that time to be disposed of and immediately reacquired by the trustee for a consideration equal to the whole or a corresponding part of the market value of the asset; but
  - (b) no chargeable gain shall accrue on that disposal.]

For the purposes of this subsection a life interest which is a right to part of the income of settled property shall be treated as a life interest in a corresponding part of the settled property.

- (2) ..... <sup>F65</sup>
- (3) Subsection (1) above shall apply where the person entitled to a life interest in possession in all or any part of settled property dies (although the interest does not then terminate) as it applies on the termination of such a life interest.
- (4) In this section “life interest” in relation to a settlement—
- (a) includes a right under the settlement to the income of, or the use or occupation of, settled property for the life of a person other than the person entitled to the right, or for lives,
  - (b) does not include any right which is contingent on the exercise of the discretion of the trustee or the discretion of some other person, and
  - (c) subject to subsection (5) below, does not include an annuity, notwithstanding that the annuity is payable out of or charged on settled property or the income of settled property.
- (5) In this section the expression “life interest” shall include entitlement to an annuity created by the settlement if—

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (a) some or all of the settled property is appropriated by the trustees as a fund out of which the annuity is payable, and
- (b) there is no right of recourse to settled property not so appropriated, or to the income of settled property not so appropriated,

and, without prejudice to subsection (6) below, the settled property so appropriated shall, while the annuity is payable, and on the occasion of the death of the annuitant, be treated for the purposes of this section as being settled property under a separate settlement.

- (6) If there is a life interest in a part of the settled property and, where that is a life interest in income, there is no right of recourse to, or to the income of, the remainder of the settled property, the part of the settled property in which the life interest subsists shall while it subsists be treated for the purposes of this section as being settled property under a separate settlement.

**Textual Amendments**

- F64** S. 55(1)(a)(b) and the words commencing s. 55(1) substituted for words by Finance Act 1982 (c. 39, SIF 63:2), s. 84(1) in relation to interests terminating on or after 6 April 1982
- F65** S. 55(2) repealed by Finance Act 1982 (c. 39, SIF 63:2), ss. 84, 157 and Sch. 22 Part VI in relation to interests terminating on or after 6 April 1982

**Modifications etc. (not altering text)**

- C92** See Finance Act 1988 (c. 39, SIF 63:1, 2), ss. 100, 109 and Sch. 10

**56 Death of life tenant: exclusion of chargeable gain.**

- (1) Where, by virtue of section 54(1) above, the assets forming part of any settled property are deemed to be disposed of and re-acquired by the trustee on the occasion when a person becomes [<sup>F66</sup>(or would but for a disability become)] absolutely entitled thereto as against the trustee, then, if that occasion is the termination of a life interest (within the meaning of section 55 (above) by the death of the person entitled to that interest—
  - (a) no chargeable gain shall accrue on the disposal, and
  - (b) if on the death the property reverts to the disponent the disposal and re-acquisition under that subsection shall be deemed to be for such consideration as to secure that neither a gain nor a loss accrues to the trustee, and shall, if the trustee had first acquired the property at a date earlier than 6th April 1965, be deemed to be at that earlier date.

[<sup>F67</sup>(1A) Where the life interest referred to in subsection (1) above is an interest in part only of the settled property to which section 54 applies, subsection (1)(a) above shall not apply but any chargeable gain accruing on the disposal shall be reduced by a proportion corresponding to that represented by the part.

(1B) The last sentence of subsection (1) of section 55 above, and subsection (6) of that section, shall apply for the purposes of subsection (1A) above as they apply for the purposes of section 55(1).]

- (2) ..... <sup>F68</sup>

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Textual Amendments

- F66** Words inserted by Finance Act 1981 (c. 35, SIF 63:2), s. 87(2) in respect of occurrences on or after 10 March 1981
- F67** S. 56(1A)(1B) inserted by Finance Act 1982 (c. 39, SIF 63:2), s. 84 in respect of interests terminating on or after 6 April 1982
- F68** S. 56(2) repealed by Finance Act 1982 (c. 39, SIF 63:2), ss. 84(2), 157 and Sch. 22 Part VI in relation to interests terminating on or after 6 April 1982

#### Modifications etc. (not altering text)

- C93** See Finance Act 1988 (c. 39, SIF 63:1, 2), ss. 100, 109 and Sch. 10
- C94** See Finance Act 1988 (c. 39, SIF 63:1, 2), s. 96 and Sch. 8 para. 1

### [<sup>F69</sup> 56A Effect on sections 55 and 56 of relief under Finance Act 1980, section 79.

- (1) This section applies where—
  - (a) a claim for relief was made under section [<sup>F70</sup>126 or 147A below] in respect of the disposal of an asset to a trustee, and
  - (b) the trustee is deemed to have disposed of the asset, or part of it, by virtue of section 54(1) or 55(1)(a) above.
- (2) Sections 56(1)(a) and 55(1)(b) shall not apply to the disposal of the asset or part by the trustee, but any chargeable gain accruing to the trustee on the disposal shall be restricted to the amount of the held-over gain (or a corresponding part of it) on the disposal of the asset to him.
- (3) Subsection (2) above shall not have effect in a case within section 56(1A) above; but in such a case the reduction provided for by section 56(1A) above shall be diminished by an amount equal to the proportion there mentioned of the held-over gain.
- (4) In this section “held-over gain” has the same meaning as in section [<sup>F70</sup>126 or, as the case may be, 147A below].]

#### Textual Amendments

- F69** S. 56A added by Finance Act 1982 (c. 39, SIF 63:2), s. 84 in respect of interests terminating on or after 6 April 1982
- F70** Words substituted by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 6(1) in relation to disposals on or after 14th March 1989 (except where relief given under Finance Act 1980 (c. 48), s. 79 in respect of a disposal before that date)

#### Modifications etc. (not altering text)

- C95** See Finance Act 1988 (c. 39, SIF 63:1, 2), ss. 100, 109 and Sch. 10

### 57 Death of annuitant.

Sections 54(1) and 55(1) above shall apply, where an annuity which is not a life interest is terminated by the death of the annuitant, as they apply on the termination of a life interest by the death of the person entitled thereto.

In this section “life interest” has the same meaning as in section 55 above.



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**Modifications etc. (not altering text)**

**C96** See Finance Act 1988 (c. 39, SIF 63;1, 2), ss. 100, 109 and Sch. 10

**58 Disposal of interests in settled property.**

- (1) No chargeable gain shall accrue on the disposal of an interest created by or arising under a settlement (including, in particular, an annuity or life interest, and the reversion to an annuity or life interest) by the person for whose benefit the interest was created by the terms of the settlement or by any other person except one who acquired, or derives his title from one who acquired, the interest for a consideration in money or money's worth, other than consideration consisting of another interest under the settlement.
- (2) Subject to subsection (1) above, where a person who has acquired an interest in settled property (including in particular the reversion to an annuity or life interest) becomes, as the holder of that interest, absolutely entitled as against the trustee to any settled property, he shall be treated as disposing of the interest in consideration of obtaining that settled property (but without prejudice to any gain accruing to the trustee on the disposal of that property deemed to be effected by him under section 54(1) above).

**Modifications etc. (not altering text)**

**C97** See Finance Act 1988 (c. 39, SIF 63;1, 2), ss. 100, 109 and Sch. 10

**C98** See Finance Act 1981 (c. 35, SIF 63:2), s. 88

*Other cases*

**59 Gifts: recovery from donee.**

- (1) If in any year of assessment a chargeable gain accrues to any person on the disposal of an asset by way of gift and any amount of capital gains tax assessed on that person for that year of assessment is not paid within twelve months from the date when the tax becomes payable the donee may, by an assessment made not later than two years from the date when the tax became payable, be assessed and charged (in the name of the donor) to capital gains tax on an amount not exceeding the amount of the chargeable gain so accruing, and not exceeding the grossed up amount of that capital gains tax unpaid at the time when he is so assessed, grossing up at the marginal rate of tax, that is to say taking capital gains tax on a chargeable gain at the amount which would not have been chargeable but for that chargeable gain.
- (2) A person paying any amount of tax in pursuance of this section shall be entitled to recover a sum of that amount from the donor.
- (3) References in this section to a donor include, in the case of an individual who has died, references to his personal representatives.
- (4) In this section references to a gift include references to any transaction otherwise than by way of a bargain made at arm's length so far as money or money's worth passes under the transaction without full consideration in money or money's worth, and "donor" and "donee" shall be construed accordingly; and this section shall apply

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in relation to a gift made by two or more donors with the necessary modifications and subject to any necessary apportionments.

## 60 Partnerships.

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 [F71 112(1)(2)] of [F71 the Taxes Act 1988] (residence of partnerships) shall apply in relation to tax chargeable in pursuance of this Act as it applies in relation to income tax.

### Textual Amendments

**F71** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

## 61 Insolvents' assets.

- (1) In relation to assets held by a person as trustee or assignee in bankruptcy or under a deed of arrangement this Act shall apply as if the assets were vested in, and the acts of the trustee or assignee in relation to the assets were the acts of, the bankrupt or debtor (acquisitions from or disposals to him by the bankrupt or debtor being disregarded accordingly), and tax in respect of any chargeable gains which accrue to any such trustee or assignee shall be assessable on and recoverable from him.
- (2) Assets held by a trustee or assignee in bankruptcy or under a deed of arrangement at the death of the bankrupt or debtor shall for the purposes of this Act be regarded as held by a personal representative of the deceased and—
  - (a) subsection (1) above shall not apply after the death, and
  - (b) section 49(1) above (under which assets passing on a death are deemed to be acquired by the persons on whom they devolve) shall apply as if any assets held by a trustee or assignee in bankruptcy or under a deed of arrangement at the death of the bankrupt or debtor were assets of which the deceased was competent to dispose and which then devolved on the trustee or assignee as if he were a personal representative.
- (3) Assets vesting in a trustee in bankruptcy after the death of the bankrupt or debtor shall for the purposes of this Act be regarded as held by a personal representative of the deceased, and subsection (1) above shall not apply.
- (4) The definition of “settled property” in section 51 above shall not include any property as being property held by a trustee or assignee in bankruptcy or under a deed of arrangement.
- (5) In this section “deed of arrangement” means a deed of arrangement to which the <sup>M10</sup>Deeds of Arrangement Act 1914 or any corresponding enactment forming part of the law of Scotland or Northern Ireland applies.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### Marginal Citations

M10 1914 c. 47.

## 62 Transactions between connected persons.

- (1) This section shall apply where a person acquires an asset and the person making the disposal is connected with him.
- (2) Without prejudice to the generality of [F72section 29A(1)] above the person acquiring the asset and the person making the disposal shall be treated as parties to a transaction otherwise than by way of a bargain made at arm's length.
- (3) If on the disposal a loss accrues to the person making the disposal, it shall not be deductible except from a chargeable gain accruing to him on some other disposal of an asset to the person acquiring the asset mentioned in subsection (1) above, being a disposal made at a time when they are connected persons:  
Provided that this subsection shall not apply to a disposal by way of gift in settlement if the gift and the income from it is wholly or primarily applicable for educational, cultural or recreational purposes, and the persons benefiting from the application for those purposes are confined to members of an association of persons for whose benefit the gift was made, not being persons all or most of whom are connected persons.
- (4) Where the asset mentioned in subsection (1) above is an option to enter into a sale or other transaction given by the person making the disposal a loss accruing to the person acquiring the asset shall not be an allowable loss unless it accrues on a disposal of the option at arm's length to a person who is not connected with him.
- (5) In a case where the asset mentioned in subsection (1) above is subject to any right or restriction enforceable by the person making the disposal, or by a person connected with him, then [F72where the amount of the consideration for the acquisition is], in accordance with subsection (2) above, deemed to be equal to the market value of the asset) that market value shall be—
  - (a) what its market value would be if not subject to the right or restriction, minus—
  - (b) the market value of the right or restriction or the amount by which its extinction would enhance the value of the asset to its owner, whichever is the less:  
  
Provided that if the right or restriction is of such a nature that its enforcement would or might effectively destroy or substantially impair the value of the asset without bringing any countervailing advantage either to the person making the disposal or a person connected with him or is an option or other right to acquire the asset or, in the case of incorporeal property, is a right to extinguish the asset in the hands of the person giving the consideration by forfeiture or merger or otherwise, that market value of the asset shall be determined, and the amount of the gain accruing on the disposal shall be computed, as if the right or restriction did not exist.
- (6) Subsection (5) above shall not apply to a right of forfeiture or other right exercisable on breach of a covenant contained in a lease of land or other property, and shall not apply to any right or restriction under a mortgage or other charge.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### Textual Amendments

**F72** Words substituted by Finance Act 1981 (c. 35, SIF 63:2), s. 90(3) in relation to acquisitions and disposals on or after 10 March 1981

### Modifications etc. (not altering text)

**C99** See Finance (No. 2) Act 1987 (c. 51), s. 74(6) and Sch. 5 para. 8(2)

**C100** See Finance Act 1984 (c. 43, SIF 63:2), s. 79(7)(8)

## 63 Connected persons: interpretation.

- (1) Any question whether a person is connected with another shall for the purposes of this Act be determined in accordance with the following subsections of this section (any provision that one person is connected with another being taken to mean that they are connected with one another).
- (2) A person is connected with an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual's husband or wife.
- (3) A person, in his capacity as trustee of a settlement, is connected with any individual who in relation to the settlement is a settlor, with any person who is connected with such an individual and with a body corporate which, under section [F73 681] of [F74 the Taxes Act 1988] is deemed to be connected with that settlement ("settlement" and "settlor" having for the purposes of this subsection the meanings assigned to them by subsection [F75 (4)] of the said section [F73 681]).
- (4) Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements, a person is connected with any person with whom he is in partnership, and with the husband or wife or a relative of any individual with whom he is in partnership.
- (5) A company is connected with another company—
  - (a) if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other, or
  - (b) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected.
- (6) A company is connected with another person, if that person has control of it or if that person and persons connected with him together have control of it.
- (7) Any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.
- (8) In this section "relative" means brother, sister, ancestor or lineal descendant.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Textual Amendments

- F73** Figure substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32
- F74** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32
- F75** “(4)” substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32

## PART IV

### SHARES AND SECURITIES

#### CHAPTER I

##### GENERAL

#### 64 Interpretation.

- (1) In this Act, unless the context otherwise requires—
- “gilt-edged securities” has the meaning given by Schedule 2 to this Act,
  - [<sup>F76</sup>“qualifying corporate bonds” has the meaning given by section 64 of the Finance Act 1984],
  - “shares” includes stock,
  - “class”, in relation to shares or securities, means a class of shares or securities of any one company.
- (2) For the purposes of this Act 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.

#### Textual Amendments

- F76** Definition inserted by [Finance Act 1984 \(c. 43, SIF 63:2\)](#), **s. 64(1)** and Sch. 13 para. 1

#### *Rules of identification*

#### 65 Pooling.

- (1) This section has effect subject to—
- (a) section 66 below, and
  - (b) paragraphs 3 and 13(2) of Schedule 5 to this Act,
- [<sup>F77</sup>and this section shall not apply to gilt-edged securities].
- (2) Any number of securities of the same class held by one person in one capacity shall for the purposes of this Act be regarded as indistinguishable parts of a single asset (in this

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section referred to as a holding) growing or diminishing on the occasions on which additional securities of the class in question are acquired, or some of the securities of the class in question are disposed of.

- (3) Without prejudice to the generality of subsection (2) above, a disposal of securities in a holding, other than the disposal outright of the entire holding, is a disposal of part of an asset and the provisions of this Act relating to the computation of a gain accruing on a disposal of part of an asset shall apply accordingly.
- (4) Shares, or securities of a company, shall not be treated for the purposes of this section as being of the same class unless they are so treated by the practice of a recognised stock exchange in the United Kingdom or elsewhere or would be so treated if dealt with on such a stock exchange, but shall be treated in accordance with this section notwithstanding that they are identified in some other way by the disposal or by the transfer or delivery giving effect to it.
- (5) This section shall apply separately in relation to any securities held by a person to whom they were issued as an employee of the company or of any other person on terms which restrict his rights to dispose of them, so long as those terms are in force, and, while applying separately to any such securities, shall have effect as if the owner held them in a capacity other than that in which he holds any other securities of the same class.
- (6) Nothing in this section shall be taken as affecting the manner in which the market value of any asset is to be ascertained.
- (7) In this section “securities” means—
  - (a) shares, or securities of a company, and
  - (b) [<sup>F77</sup>subject to the exclusion of gilt-edged securities in subsection (1) above], any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

#### Textual Amendments

**F77** Words repealed by [Finance Act 1985 \(c. 54\), s. 98\(6\)](#) and Sch. 27 Part VII with respect to disposals on or after 2 July 1986

#### Modifications etc. (not altering text)

**C101** See also— [Finance Act 1982 \(c. 39, SIF 63:2\), s. 88\(1\)](#); [Finance Act 1985 \(c. 54\), s. 68\(3\)\(c\)](#) and Sch. 19 para. 17(1)

## 66 Disposal on or before day of acquisition.

- (1) The following provisions shall apply where securities of the same kind are acquired or disposed of by the same person on the same day and in the same capacity—
  - (a) all the securities so acquired shall be treated as acquired by a single transaction and all the securities so disposed of shall be treated as disposed of by a single transaction, and
  - (b) all the securities so acquired shall, so far as their quantity does not exceed that of the securities so disposed of, be identified with those securities.
- (2) Where the quantity of the securities so disposed of exceeds the quantity of the securities so acquired, then so far as the excess—

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- (a) is not required by paragraph 2(2), 3(3) or 13(3) of Schedule 5 to this Act to be identified with securities held on or acquired before 6th April 1965, and
  - (b) cannot be treated under section 65 above as diminishing a holding,it shall be treated as diminishing a quantity subsequently acquired, and a quantity so acquired at an earlier date, rather than one so acquired at a later date.
- (3) Shares shall not be treated for the purposes of this section as being of the same kind unless they are treated as being of the same class by the practice of a recognised stock exchange in the United Kingdom or elsewhere or would be so treated if dealt with on such a stock exchange.
- (4) In this section “securities” includes shares and any assets dealt with without identifying the particular assets disposed of or acquired, [<sup>F78</sup>and in the case of gilt-edged securities subsection (2) above has effect subject to section 68 below].

#### Textual Amendments

**F78** Words repealed by Finance Act 1985 (c. 54), ss. 67(1), 98(6) and Sch. 27 Part VII with respect to disposals on or after 2 July 1986

#### Modifications etc. (not altering text)

**C102** See Finance Act 1985 (c. 54), s. 68(3)(c) and Sch. 19 para. 17(2)

**C103** See Finance Act 1982 (c. 39, SIF 63:2), s. 88(1)

**C104** S. 66 modified by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 440A(5) (as substituted by Finance Act 1990 (c. 29, SIF 63:1), s. 41, Sch. 6 para. 8)

**C105** See Finance Act 1985 (c. 54), s. 68(3)(c) and Sch. 19 para. 18

### *Gilt-edged securities*

#### [<sup>F79</sup>67 Exemptions for gilt-edged securities and qualifying corporate bonds etc.

- (1) A gain which accrues on the disposal by any person of—
  - (a) gilt-edged securities or qualifying corporate bonds, or
  - (b) any option or contract to acquire or dispose of gilt-edged securities or qualifying corporate bonds,shall not be a chargeable gain.
- (2) In subsection (1) above the reference to the disposal of a contract to acquire or dispose of gilt-edged securities or qualifying corporate bonds is a reference to the disposal of the outstanding obligations under such a contract.
- (3) Without prejudice to section 72(3) of the Finance Act 1985 (closing out of certain futures contracts dealt in on a recognised futures exchange), where a person who has entered into any such contract as is referred to in subsection (1)(b) above closes out that contract by entering into another contract with obligations which are reciprocal to those of the first-mentioned contract, that transaction shall for the purposes of this section constitute the disposal of an asset, namely, his outstanding obligations under the first-mentioned contract.]



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Textual Amendments

**F79** S. 67 substituted by Finance Act 1986 (c. 41), s. 59 with respect to disposals occurring on or after 2 July 1986

#### Modifications etc. (not altering text)

**C106** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 484(5)

### [<sup>F80</sup> 68 Identification (general).

- (1) The following provisions shall apply, for the purpose of identifying gilt-edged securities disposed of by any person with securities of the same kind acquired by him in the same capacity.
- (2) Securities disposed of at an earlier date shall be identified before securities disposed of at a later date, and their identification shall have effect also for determining what securities might be comprised in the later disposal.
- (3) Securities disposed of shall be identified with securities acquired within the twelve months preceding the disposal rather than with securities not so acquired, and with securities so acquired at an earlier date rather than with securities so acquired at a later date.
- (4) This section has effect subject to section 66(1) above, and 69 below.]

#### Textual Amendments

**F80** Ss. 68–70 repealed by Finance Act 1985 (c. 54), s. 98(6) and Sch. 27 Part VII with respect to disposals on or after 2 July 1986

#### Modifications etc. (not altering text)

**C107** See Finance Act 1982 (c. 39, SIF 63:2), s. 58(6) in relation to certain index-linked Treasury Stock  
**C108** See Finance Act 1982 (c. 39, SIF 63:2), s. 88(1)(b)

### [<sup>F81</sup> 69 Identification: disposal to husband or wife and third person.

- (1) Where, in the case of a man and his wife living with him, one of them—
  - (a) disposes of gilt-edged securities of any kind to the other, and
  - (b) disposes of gilt-edged securities of the same kind to a third person,
 then, if under the preceding provisions of this Chapter any of the securities disposed of to the husband or wife would be identified with securities acquired within the twelve months preceding the disposal and any of the securities disposed of to the third person with securities not so acquired, the securities disposed of to the third person shall be identified with securities so acquired before any securities disposed of to the husband or wife are so identified.
- (2) If there is more than one disposal to the wife or husband, or to a third party, the provisions of this section shall be applied to securities disposed of at an earlier date before they are applied to securities disposed of at a later date, and the identification of the securities disposed of at the earlier date shall have effect also for determining what securities might be comprised in the later disposal.]

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### Textual Amendments

**F81** Ss. 68–70 repealed by Finance Act 1985 (c. 54), s. 98(6) and Sch. 27 Part VII with respect to disposals on or after 2 July 1986

### [<sup>F82</sup>70 Re-acquisition after sale at a loss.

- (1) Where a loss accrues to a person on the disposal of gilt-edged securities [<sup>F83</sup>or, subject to subsection (1A) below, qualifying corporate bonds] and he re-acquires the same securities within the prescribed period after the disposal that loss shall not be deductible except from a chargeable gain accruing to him on the disposal of the securities re-acquired.

[ This section does not apply in relation to a disposal of qualifying corporate bonds if <sup>F84</sup>(1A) the disposal is such that section 58 of the Finance (No. 2) Act 1975 applies but, subject to that, any reference in the following provisions of this section to gilt-edged securities includes a reference to qualifying corporate bonds.]

- (2) Where a person disposes of gilt-edged securities and acquires gilt-edged securities of the same kind within the prescribed period after the disposal he shall be treated for the purposes of subsection (1) above as re-acquiring the securities disposed of (or such quantity of them as does not exceed the quantity acquired) but so that—
- (a) there cannot be in relation to the same disposal more than one re-acquisition of the same security, nor can there be by the same acquisition of a security a re-acquisition in relation to more than one disposal, and
  - (b) if an acquisition could be treated as a re-acquisition of securities disposed of either at an earlier or at a later date it shall be treated as a re-acquisition of the securities disposed of at the earlier date, and
  - (c) if securities disposed of by the same disposal could be treated as re-acquired at an earlier or at a later date they shall be treated as re-acquired at the earlier date.
- (3) Where a person who holds gilt-edged securities (the “original holding”) acquires securities of the same kind (an “additional holding”) and within the prescribed period after the acquisition disposes of securities of that kind, he shall be treated for the purposes of subsection (1) above as if he had within the prescribed period after the disposal re-acquired the securities disposed of or such quantity of them as does not exceed the original holding or the additional holding, whichever is the less.

Paragraphs (a), (b) and (c) of subsection (2) above shall have effect in relation to the acquisition of the additional holding as if it were a re-acquisition of the securities disposed of.

- (4) In the case of a man and his wife living with him—
- (a) the preceding provisions of this section shall, with the necessary modifications, apply also where a loss on the disposal accrues to one of them and the acquisition after the disposal is made by the other,
  - (b) paragraph (a) above shall have effect in relation to subsection (3) above as if the acquisition of the additional holding were an acquisition after the disposal.
- (5) In the case of companies in the same group subsections (1), (2) and (3) above shall, with the necessary modifications, apply also where a loss on the disposal accrues to one of them and the acquisition is made by the other.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (6) In this section references to the acquisition of securities shall not include references—
- (a) to acquisition as trading stock, or
  - (b) in the case of a company which is a member of a group, to acquisition from another company which is a member of that group throughout the prescribed period before and after the disposal.

- (7) In this section—

“group” has the meaning given in section 272 of the Taxes Act;

“the prescribed period” means—

- (a) in the case of an acquisition through a stock exchange, one month;
  - (b) in the case of an acquisition otherwise than as aforesaid, six months;
- “trading stock”, in relation to a company carrying on life assurance business as defined in section 323 of the Taxes Act, does not include investments held in connection with that business except in so far as they are referable to general annuity business or pension business as defined in that section;

and references to a person’s holding, acquiring and disposing of securities are references to his doing so in the same capacity.]

#### Textual Amendments

- F82** Ss. 68–70 repealed by Finance Act 1985 (c. 54), s. 98(6) and Sch. 27 Part VII with respect to disposals on or after 2 July 1986
- F83** Words inserted by Finance Act 1984 (c. 43, SIF 63:2), s. 64(1) and Sch. 13 para. 3
- F84** S. 70(1A) inserted by Finance Act 1984 (c. 43, SIF 63:2), s. 64(1) and Sch. 13 para. 3

*Savings certificates, etc.*

## 71 Exemption for government non-marketable securities.

- (1) Savings certificates and non-marketable securities issued under the <sup>M11</sup>National Loans Act 1968 or the <sup>M12</sup>National Loans Act 1939, or any corresponding enactment forming part of the law of Northern Ireland, shall not be chargeable assets, and accordingly no chargeable gain shall accrue on their disposal.

- (2) In this section—

- (a) “savings certificates” means savings certificates issued under section 12 of the National Loans Act 1968, or section 7 of the <sup>M13</sup>National Debt Act 1958, or section 59 of the <sup>M14</sup>Finance Act 1920, and any war savings certificates as defined in section 9(3) of the <sup>M15</sup>National Debt Act 1972, 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.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Marginal Citations

- M11 1968 c. 13.
- M12 1939 c. 117.
- M13 1958 (7 & 8 Eliz. 2) c. 6.
- M14 1920 c. 18.
- M15 1972 c. 65.

*Capital distribution in respect of shares, etc.*

## 72 Distribution which is not a new holding within Chapter II.

- (1) Where a person receives or becomes entitled to receive in respect of shares in a company any capital distribution from the company (other than a new holding as defined in section 77 below) he shall be treated as if he had in consideration of that capital distribution disposed of an interest in the shares.
- (2) If the inspector is satisfied that the amount distributed is small, as compared with the value of the shares in respect of which it is distributed, and so directs—
  - (a) the occasion of the capital distribution shall not be treated for the purposes of this Act as a disposal of the asset, and
  - (b) the amount distributed shall be deducted from any expenditure allowable under this Act as a deduction in computing a gain or loss on the disposal of the shares by the person receiving or becoming entitled to receive the distribution of capital.
- (3) A person who is dissatisfied with the refusal of the inspector to give a direction under this section may appeal to the Commissioners having jurisdiction on an appeal against an assessment to tax in respect of a gain accruing on the disposal.
- (4) Where the allowable expenditure is less than the amount distributed (or is nil)—
  - (a) subsections (2) and (3) above shall not apply, and
  - (b) if the recipient so elects (and there is any allowable expenditure)—
    - (i) the amount distributed shall be reduced by the amount of the allowable expenditure, and
    - (ii) none of that expenditure shall be allowable as a deduction in computing a gain accruing on the occasion of the capital distribution, or on any subsequent occasion.

In this subsection “allowable expenditure” means the expenditure which immediately before the occasion of the capital distribution was attributable to the shares under paragraphs (a) and (b) of section 32(1) above.

- (5) In this section—
  - (a) the “amount distributed” means the amount or value of the capital distribution,
  - (b) “capital distribution” means any distribution from a company, including a distribution in the course of dissolving or winding up the company, in money or money’s worth except a distribution which in the hands of the recipient constitutes income for the purposes of income tax.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**Modifications etc. (not altering text)**

**C109** See Finance Act 1989 (c. 26, SIF 63:2), s. 141 and Sch. 15 para. 3

**C110** See— Capital Gains Tax Act 1979 (c. 14), s. 144A(2); Finance Act 1980 (c. 48, SIF 63:2), s. 117 and Sch. 18 para. 9; Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 346(7); Finance Act 1988 (c. 39, SIF 63:1, 2), s. 145 and Sch. 12 para. 6(2)

**73 Disposal of right to acquire shares.**

- (1) Where a person receives or becomes entitled to receive in respect of any shares in a company a provisional allotment of shares in or debentures of the company and he disposes of his rights section 72 above shall apply as if the amount of the consideration for the disposal were a capital distribution received by him from the company in respect of the first-mentioned shares, and as if that person had, instead of disposing of the rights, disposed of an interest in those shares.
- (2) If under Schedule 5 to this Act it is to be assumed that, at a time after the creation of the rights and before their disposal, the said person sold and immediately re-acquired the shares in respect of which the rights were created, the same assumption shall be made as respect the rights.
- (3) This section shall apply in relation to rights obtained in respect of debentures of a company as it applies in relation to rights obtained in respect of shares in a company.

*Close companies*

**74 Disposal of shares: relief in respect of income tax consequent on shortfall in distributions.**

- (1) If in pursuance of [<sup>F85</sup>section 426 of the Taxes Act 1988] (consequences for income tax of apportionment of income etc. of close company) a person is assessed to income tax, then, in the computation under Chapter II of Part II of this Act of the gain accruing on a disposal by him of any shares forming part of his interest in the company to which the relevant apportionment relates, the amount of the income tax paid by him, so far as attributable to those shares, shall be allowable as a deduction.
- (2) Subsection (1) above shall not apply in relation to tax charged in respect of undistributed income which has, before the disposal, been subsequently distributed and is then exempt from tax by virtue of [<sup>F85</sup>section 427(4) of the Taxes Act 1988] or in relation to tax treated as having been paid by virtue of [<sup>F85</sup>section 426(2)(b) of that Act].
- (3) For the purposes of this section the income assessed to tax shall be the highest part of the individual's income for the year of assessment in question, but so that if the highest part of the said income is taken into account under this section in relation to an assessment to tax the next highest part shall be taken into account in relation to any other relevant assessment, and so on.
- (4) For the purpose of identifying shares forming part of an interest in a company with shares subsequently disposed of which are of the same class, shares bought at an earlier time shall be deemed to have been disposed of before shares bought at a later time.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (5) The provisions of this section shall be construed as if this section [F86] were included in sections 426 to 428 of the Taxes Act 1988].

#### Textual Amendments

- F85** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 para. 32](#)
- F86** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

## 75 Shares in close company transferring assets at an undervalue.

- (1) If after 6th April 1965 a company which is a close company transfers an asset to any person otherwise than by way of a bargain made at arm's length and for a consideration of an amount or value less than the market value of the asset an amount equal to the difference shall be apportioned among the issued shares of the company, and the holders of those shares shall be treated in accordance with the following provisions of this section.
- (2) For the purposes of the computation under Chapter II of Part II of this Act of a gain accruing on the disposal of any of those shares by the person owning them on the date of transfer an amount equal to the amount so apportioned to that share shall be excluded from the expenditure allowable as a deduction under section 32(1)(a) above from the consideration for the disposal.
- (3) If the person owning any of the said shares at the date of transfer is itself a close company an amount equal to the amount apportioned to the shares so owned under subsection (1) above to that close company shall be apportioned among the issued shares of that close company, and the holders of those shares shall be treated in accordance with subsection (2) above, and so on through any number of close companies.
- (4) This section shall not apply where the transfer of the asset is a disposal to which section 273(1) of [F87] the Taxes Act 1970] (transfers within a group of companies) applies.

#### Textual Amendments

- F87** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

#### Modifications etc. (not altering text)

- C111** Where [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), [s. 96\(2\)](#) and Sch. 8 para. 7 apply (rebasings to 1982), words “6th April 1965” replaced by “31st March 1982”

### *Share option schemes*

## 76 Consideration for acquisition of shares under share option schemes.

Section 19(3) above (assets deemed acquired and disposed of at market value) shall not apply in calculating the consideration for the acquisition of shares in pursuance of a share option scheme as defined in Schedule 12 to the <sup>M16</sup>Finance Act 1972.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### Marginal Citations

M16 1972 c. 41.

## CHAPTER II

### REORGANISATION OF SHARE CAPITAL, CONVERSION OF SECURITIES, ETC.

### Modifications etc. (not altering text)

C112 See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 220(9)

#### *Reorganisation or reduction of share capital*

### 77 Application of sections 78 to 81.

- (1) For the purposes of this section and sections 78 to 81 below “reorganisation” means a reorganisation or reduction of a company’s share capital, and in relation to the reorganisation—
  - (a) “original shares” means shares held before and concerned in the reorganisation,
  - (b) “new holding” means, in relation to any original shares, the shares in and debentures of the company which as a result of the reorganisation represent the original shares (including such, if any, of the original shares as remain).
- (2) The reference in subsection (1) above to the reorganisation of a company’s share capital includes—
  - (a) any case where persons are, whether for payment or not, allotted shares in or debentures of the company in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of shares in the company or of any class of shares in the company, and
  - (b) any case where there are more than one class of share and the rights attached to shares of any class are altered.
- (3) The reference in subsection (1) above to a reduction of share capital does not include the paying off of redeemable share capital, and where shares in a company are redeemed by the company otherwise than by the issue of shares or debentures (with or without other consideration) and otherwise than in a liquidation, the shareholder shall be treated as disposing of the shares at the time of the redemption.

### Modifications etc. (not altering text)

C113 See [Finance Act 1980 \(c. 48, SIF 63:2\)](#), s. 117 and Sch. 18 para. 9

C114 See— [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), ss. 114, 187(2) and Sch. 11 para. 6(2); [Finance Act 1989 \(c. 26, SIF 63:2\)](#), s. 69(9) and Sch. 5 paras. 8, 11



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

## 78 Equation of original shares and new holding.

Subject to sections 79 to 81 below, a reorganisation shall not be treated as involving any disposal of the original shares or any acquisition of the new holding or any part of it, but the original shares (taken as a single asset) and the new holding (taken as a single asset) shall be treated as the same asset acquired as the original shares were acquired.

### Modifications etc. (not altering text)

**C115** See Finance Act 1980 (c. 48, SIF 63:2), s. 117 and Sch. 18 para. 9

**C116** See— Capital Gains Tax Act 1979 (c. 14), s. 149C(5); Finance Act 1982 (c. 39, SIF 63:2), s. 86 and Sch. 13 para. 5; Finance Act 1984 (c. 43, SIF 63:2), s. 64(7) and Sch. 13 Part II regarding treatment of qualifying corporate bonds; Finance Act 1985 (c. 54), s. 69 and Sch. 20 para. 2; Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), ss. 139(13), 299(5), 305, 757(1), 758(5) and 760(4); Finance Act 1988 (c. 39, SIF 63:1, 2), ss. 82, 114 and Sch. 11 para. 3(1)(b); Finance Act 1989 (c. 26, SIF 63:2), s. 140; S.I. 1986 No. 1948 regulation 32(3) and S.I. 1989 No. 469 regulation 27

## 79 Consideration given or received by holder.

- (1) Where, on a reorganisation, a person gives or becomes liable to give any consideration for his new holding or any part of it, that consideration shall in relation to any disposal of the new holding or any part of it be treated as having been given for the original shares, and if the new holding or part of it is disposed of with a liability attaching to it in respect of that consideration, the consideration given for the disposal shall be adjusted accordingly:

Provided that there shall not be treated as consideration given for the new holding or any part of it any surrender, cancellation or other alteration of the original shares or of the rights attached thereto, or any consideration consisting of any application, in paying up the new holding or any part of it, of assets of the company or of any dividend or other distribution declared out of those assets but not made.

[<sup>F88</sup> Provided also that, in the case of a reorganisation on or after 10th March 1981, any consideration given for the new holding or any part of it otherwise than by way of a bargain made at arm's length shall be disregarded to the extent that its amount or value exceeds the relevant increase in value; and for this purpose "the relevant increase in value" means the amount by which the market value of the new holding immediately after the reorganisation exceeds the market value of the original shares immediately before the reorganisation.]

- (2) Where on a reorganisation a person receives (or is deemed to receive), or becomes entitled to receive, any consideration, other than the new holding, for the disposal of an interest in the original shares, and in particular—
- where under section 72 above he is to be treated as if he had in consideration of a capital distribution disposed of an interest in the original shares, or
  - where he receives (or is deemed to receive) consideration from other shareholders in respect of a surrender of rights derived from the original shares,

he shall be treated as if the new holding resulted from his having for that consideration disposed of an interest in the original shares (but without prejudice to the original shares and the new holding being treated in accordance with section 78 above as the same asset).

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (3) Where for the purpose of subsection (2) above it is necessary in computing the gain or loss accruing on the disposal of the interest in the original shares mentioned in subsection (2) above to apportion the cost of acquisition of the original shares between what is disposed of and what is retained, the apportionment shall be made in the like manner as under section 80(1) below.

#### **Textual Amendments**

**F88** Proviso added by [Finance Act 1981 \(c. 35, SIF 63:2\)](#), **s. 91**

#### **Modifications etc. (not altering text)**

**C117** See [Finance Act 1980 \(c. 48, SIF 63:2\)](#), **s. 117** and Sch. 18 para. 9

**C118** See S.I. [1986 No. 1948](#) regulation 32(3) and S.I. [1989 No. 469](#) regulation 27

**C119** See [Finance Act 1988 \(c. 39, SIF 63;1, 2\)](#), **s. 82**

### **80 Part disposal of new holding.**

- (1) Where for the purpose of computing the gain or loss accruing to a person from the acquisition and disposal of any part of the new holding it is necessary to apportion the cost of acquisition of any of the original shares between what is disposed of and what is retained, the apportionment shall be made by reference to market value at the date of the disposal (with such adjustment of the market value of any part of the new holding as may be required to offset any liability attaching thereto but forming part of the cost to be apportioned).
- (2) This section has effect subject to section 81(2) below.

#### **Modifications etc. (not altering text)**

**C120** See [Finance Act 1980 \(c. 48, SIF 63:2\)](#), **s. 117** and Sch. 18 para. 9

**C121** See S.I. [1986 No. 1948](#) regulation 32(3) and S.I. [1989 No. 469](#) regulation 27

**C122** See [Finance Act 1988 \(c. 39, SIF 63;1, 2\)](#), **s. 82**

### **81 Composite new holdings.**

- (1) This section shall apply to a new holding—
- (a) if it consists of more than one class of shares in or debentures of the company and one or more of those classes is of shares or debentures which, at any time not later than the end of the period of three months beginning with the date on which the reorganisation took effect, or of such longer period as the Board may by notice in writing allow, had quoted market values on a recognised stock exchange in the United Kingdom or elsewhere, or
  - (b) if it consists of more than one class of rights of unit holders and one or more of those classes is of rights the prices of which were published daily by the managers of the scheme at any time not later than the end of that period of three months (or longer if so allowed).
- (2) Where for the purpose of computing the gain or loss accruing to a person from the acquisition and disposal of the whole or any part of any class of shares or debentures or rights of unit holders forming part of a new holding to which this section applies it

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

is necessary to apportion costs of acquisition between what is disposed of and what is retained, the cost of acquisition of the new holding shall first be apportioned between the entire classes of shares or debentures or rights of which it consists by reference to market value on the first day (whether that day fell before the reorganisation took effect or later) on which market values or prices were quoted or published for the shares, debentures or rights as mentioned in subsection (1)(a) or (1)(b) above (with such adjustment of the market value of any class as may be required to offset any liability attaching thereto but forming part of the cost to be apportioned).

- (3) For the purposes of this section the day on which a reorganisation involving the allotment of shares or debentures or unit holders' rights takes effect is the day following the day on which the right to renounce any allotment expires.

**Modifications etc. (not altering text)**

**C123** See Finance Act 1980 (c. 48, SIF 63:2), s. 117 and Sch. 18 para. 9

**C124** See S.I. 1986 No. 1948 regulation 32(3) and S.I. 1989 No. 469 regulation 27

**C125** See Finance Act 1988 (c. 39, SIF 63;1, 2), s. 82

*Conversion of securities*

**82 Equation of converted securities and new holding.**

- (1) Sections 78 to 81 above shall apply with any necessary adaptations in relation to the conversion of securities as they apply in relation to a reorganisation (that is to say a reorganisation or reduction of a company's share capital).
- (2) This section has effect subject to sections 83 and 84 below.
- (3) For the purposes of this section and section 83 below—
- (a) “conversion of securities” includes—
- (i) a conversion of securities of a company into shares in the company, and
  - (ii) a conversion at the option of the holder of the securities converted as an alternative to the redemption of those securities for cash, and
  - (iii) any exchange of securities effected in pursuance of any enactment (including an enactment passed after this Act) which provides for the compulsory acquisition of any shares or securities and the issue of securities or other securities instead,
- (b) “security” includes any loan stock or similar security whether of the Government of the United Kingdom or of any other government, or of any public or local authority in the United Kingdom or elsewhere, or of any company, and whether secured or unsecured.

**Modifications etc. (not altering text)**

**C126** See— Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), ss. 56(5), 473(6), Sch. 4 paras. 2(4)(a), 7(3)(a) and Sch. 4 generally; Finance Act 1988 (c. 39, SIF 63;1, 2), s. 114 and Sch. 11 para. 6(3)

**C127** See— Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), ss. 710(13), 758(6); Finance Act 1989 (c. 26, SIF 63:2), s. 81

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### 83 Premiums on conversion of securities.

- (1) This section applies where, on a conversion of securities, a person receives, or becomes entitled to receive, any sum of money (in this section called “the premium”) which is by way of consideration (in addition to his new holding) for the disposal of the converted securities.
- (2) If the inspector is satisfied that the premium is small, as compared with the value of the converted securities, and so directs—
  - (a) receipt of the premium shall not be treated for the purposes of this Act as a disposal of part of the converted securities, and
  - (b) the premium shall be deducted from any expenditure allowable under this Act as a deduction in computing a gain or loss on the disposal of the new holding by the person receiving or becoming entitled to receive the premium.
- (3) A person who is dissatisfied with the refusal of the inspector to give a direction under subsection (2) above may appeal to the Commissioners having jurisdiction on an appeal against an assessment to tax in respect of a gain to him on a disposal of the securities.
- (4) Where the allowable expenditure is less than the premium (or is nil)—
  - (a) subsections (2) and (3) above shall not apply, and
  - (b) if the recipient so elects (and there is any allowable expenditure)—
    - (i) the amount of the premium shall be reduced by the amount of the allowable expenditure, and
    - (ii) none of that expenditure shall be allowable as a deduction in computing a gain accruing on the occasion of the conversion, or on any subsequent occasion.
- (5) In subsection (4) above “allowable expenditure” means expenditure which immediately before the conversion was attributable to the converted securities under paragraph (a) and (b) of section 32(1) above.

#### **Modifications etc. (not altering text)**

**C128** See Finance Act 1989 (c. 26, SIF 63:2), s. 141 and Sch. 15 para. 3

### 84 Compensation stock.

- (1) This section has effect where gilt-edged securities are exchanged for shares in pursuance of any enactment (including an enactment passed after this Act) which provides for the compulsory acquisition of any shares and the issue of gilt-edged securities instead.
- (2) The exchange shall not constitute a conversion of securities within section 82 above and accordingly the gilt-edged securities shall not be treated as having been acquired on any date earlier than that on which they were issued or for any consideration other than the value of the shares as determined for the purposes of the exchange.
- (3) The exchange shall be treated as not involving any disposal of the shares by the person from whom they were compulsorily acquired but—

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (a) there shall be calculated the gain or loss that would have accrued to him if he had then disposed of the shares for a consideration equal to the value mentioned in subsection (2) above, and
- (b) on a subsequent disposal of the whole or part of the gilt-edged securities by the person to whom they were issued—
- (i) there shall be deemed to accrue to him (in addition to any gain or loss that actually accrues) the whole or a corresponding part of the gain or loss mentioned in paragraph (a) above, and
  - (ii) <sup>F89</sup>if the disposal is within] section 67(1) above (exemption for gilt-edged securities) <sup>F89</sup>that section] shall have effect only in relation to any gain or loss that actually accrues and not in relation to any gain or loss that is deemed to accrue as aforesaid.
- (4) Where a person to whom gilt-edged securities of any kind were issued as mentioned in subsection (1) above disposes of securities of that kind, the securities of which he disposes—
- <sup>F90</sup>(a) shall, so far as possible, be identified with securities which were issued to him as mentioned in subsection (1) above rather than with other securities of that kind, and
  - (b) subject to paragraph (a) above, shall be identified with securities issued at an earlier time rather than with those issued at a later time].
- (5) Subsection (3)(b) above shall not apply to any disposal falling within the provisions of—
- (a) section 44(1) above (disposals between husband and wife),
  - (b) section 49(4) above (disposals by personal representatives to legatees), or
  - (c) section 273(1) of <sup>F91</sup>the Taxes Act 1970] (disposals within a group of companies);
- but a person who has acquired the securities on a disposal falling within those provisions (and without there having been a previous disposal not falling within those provisions or a devolution on death) shall be treated for the purposes of subsections (3)(b) and (4) above as if the securities had been issued to him.
- (6) Where the gilt-edged securities to be exchanged for any shares are not issued until after the date on which the shares are compulsorily acquired but on that date a right to the securities is granted, this section shall have effect as if the exchange had taken place on that date, as if references to the issue of the securities and the person to whom they were issued were references to the grant of the right and the person to whom it was granted and references to the disposal of the securities included references to disposals of the rights.
- (7) In this section “shares” includes securities within the meaning of section 82 above.
- (8) This section has effect subject to section 54 of the <sup>M17</sup>Finance Act 1976 (compulsory acquisition from certain companies of aircraft and shipbuilding shares).

#### Textual Amendments

**F89** Words repealed by [Finance Act 1985 \(c. 54\), s. 98\(6\)](#) and Sch. 27 Part VII with respect to disposals on or after 2 July 1986

**F90** [S. 84\(4\)\(a\)\(b\)](#) substituted by [Finance Act 1985 \(c. 54\), s. 67\(2\)](#) with respect to disposals on or after 2 July 1986

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**F91** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 15**

**Modifications etc. (not altering text)**

**C129** See [Capital Gains Tax Act 1979 \(c. 14\)](#), **Sch. 6 para. 20(4)**

**C130** See— [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **s. 97** and Sch. 9 para. 3(2); [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 141** and Sch. 15 para. 1(2)

**Marginal Citations**

**M17** [1976 c. 40](#).

*Company reconstructions and amalgamations*

**85 Exchange of securities for those in another company.**

- (1) Subsection (3) below has effect where a company (company A) issues shares or debentures to a person in exchange for shares in or debenture of another company (company B) and—
- (a) company A holds, or in consequence of the exchange will hold, more than one quarter of the ordinary share capital (as defined in section [<sup>F92</sup>832(1)] of [<sup>F92</sup>the Taxes Act 1988]) of company B, or
  - (b) company A issues the shares or debentures in exchange for shares as the result of a general offer—
    - (i) which is made to members of company B or any class of them (with or without exceptions for persons connected with company A), and
    - (ii) which is made in the first instance on a condition such that if it were satisfied company A would have control of company B.
- (2) Subsection (3) below also has effect where under section 86 below persons are to be treated as exchanging shares or debentures for shares or debentures held by them in consequence of the arrangement there mentioned.
- (3) Subject to the provisions of sections 87 and 88 below, sections 78 to 81 above shall apply with any necessary adaptations as if the two companies mentioned in subsection (1) above, or as the case may be in section 86 below, were the same company and the exchange were a reorganisation of its share capital.

**Textual Amendments**

**F92** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32

**Modifications etc. (not altering text)**

**C131** See— [Finance Act 1970 \(c. 24, SIF 63:1, 2\)](#), **s. 279**; [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 575(5)**, **Sch. 4 paras. 2** and 7(3)(b); [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **ss. 69(9), 74**, **Sch. 5 paras. 8** and 11

**86 Reconstruction or amalgamation involving issue of securities.**

- (1) Where—



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (a) an arrangement between a company and the persons holding shares in or debentures of the company, or any class of such shares or debentures, is entered into for the purposes of or in connection with a scheme of reconstruction or amalgamation, and
- (b) under the arrangement another company issues shares or debentures to those persons in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of shares in or debentures of the first-mentioned company, but the shares in or debentures of the first-mentioned company are either retained by those persons or cancelled.

then those persons shall be treated as exchanging the first-mentioned shares or debentures for those held by them in consequence of the arrangement (any shares or debentures retained being for this purpose regarded as if they had been cancelled and replaced by a new issue), and subsections (2) and (3) of section 85 above shall apply accordingly.

- (2) In this section “scheme of reconstruction or amalgamation” means a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and references to shares or debentures being retained include their being retained with altered rights or in an altered form whether as the result of reduction, consolidation, division or otherwise.
- (3) This section, and section 85(2) above, shall apply in relation to a company which has no share capital as if references to shares in or debentures of a company included references to any interests in the company possessed by members of the company.

**Modifications etc. (not altering text)**

**C132** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 312(3)

**C133** See— [Finance Act 1970 \(c. 24, SIF 63:1, 2\)](#), s. 279; [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 473

**87 Restriction on application of sections 85 and 86.**

- (1) Subject to subsection (2) below, and section 88 below, neither section 85 nor section 86 above shall apply to any issue by a company of shares in or debentures of that company in exchange for or in respect of shares in or debentures of another company unless the exchange, reconstruction or amalgamation in question is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to capital gains tax or corporation tax.
- (2) Subsection (1) above shall not affect the operation of section 85 or 86 in any case where the person to whom the shares or debentures are issued does not hold more than 5 per cent. of, or of any class of, the shares in or debentures of the second company mentioned in subsection (1) above.
- (3) For the purposes of subsection (2) above shares or debentures held by persons connected with the person there mentioned shall be treated as held by him.
- (4) If any tax assessed on a person (the chargeable person) by virtue of subsection (1) above is not paid within six months from the date when it is payable, any other person who—



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (a) holds all or any part of the shares or debentures that were issued to the chargeable person, and
- (b) has acquired them without there having been, since their acquisition by the chargeable person, any disposal of them not falling within section 44(1) above or section 273 of [<sup>F93</sup>the Taxes Act 1970] (disposals between spouses or members of a group of companies),

may, at any time within two years from the time when the tax became payable, be assessed and charged (in the name of the chargeable person) to all or, as the case may be, a corresponding part of the unpaid tax; and a person paying any amount of tax under this subsection shall be entitled to recover a sum of that amount from the chargeable person.

- (5) In this section references to shares or debentures include references to any interest or options to which this Chapter applies by virtue of section 86(3) above (interests in a company with no share capital) or section 139 below (quoted options).

#### **Textual Amendments**

**F93** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 15**

#### **Modifications etc. (not altering text)**

**C134** Reference to capital gains tax to be construed as a reference to income tax for purposes of [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 473**

**C135** See [Finance \(No. 2\) Act 1987 \(c. 51\)](#), **s. 95(4)** and Sch. 6 para. 5 for changes in respect of chargeable gains accruing in chargeable periods ending after a day to be appointed

## **88 Procedure for clearance in advance.**

- (1) Section 87 above shall not affect the operation of section 85 or 86 above in any case where, before the issue is made, the Board have, on the application of either company mentioned in section 87(1) above, notified the company that the Board are satisfied that the exchange, reconstruction or amalgamation will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in section 87(1) above.
- (2) Any application under subsection (1) above shall be in writing and shall contain particulars of the operations that are to be effected and the Board may, within thirty days of the receipt of the application or of any further particulars previously required under this subsection, by notice require the applicant to furnish further particulars for the purposes of enabling the Board to make their decision; and if any such notice is not complied with within thirty days or such longer period as the Board may allow, the Board need not proceed further on the application.
- (3) The Board shall notify their decision to the applicant within thirty days of receiving the application or, if they give a notice under subsection (2) above, within thirty days of the notice being complied with.
- (4) If the Board notify the applicant that they are not satisfied as mentioned in subsection (1) above or do not notify their decision to the applicant within the time required by subsection (3) above, the applicant may within thirty days of the notification or of that time required by the Board to transmit the application, together with any notice given and further particulars furnished under subsection (2) above,

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to the Special Commissioners; and in that event any notification by the Special Commissioners shall have effect for the purposes of subsection (1) above as if it were a notification by the Board.

- (5) If any particulars furnished under this section do not fully and accurately disclose all facts and considerations material for the decision of the Board or the Special Commissioners, any resulting notification that the Board or Commissioners are satisfied as mentioned in subsection (1) above shall be void.

### *Stock dividends*

## **89 Stock dividends: consideration for new holding.**

- (1) In applying section 79(1) above in relation to the issue of any share capital to which section [F<sup>94</sup>249 of the Taxes Act 1988] (stock dividends) applies as involving a reorganisation of the company's share capital, there shall be allowed, as consideration given for so much of the new holding as was issued as mentioned in—

(a) subsection (4), (5) or (6) of [F<sup>94</sup>that section], [F<sup>95</sup>or]

[F<sup>96</sup>(b) paragraph [F<sup>94</sup>12(1) of Schedule 19] to that Act],

(read in each case with subsection (3) of [F<sup>94</sup>that section]) an amount equal to what is, for that much of the new holding, the appropriate amount in cash within the meaning of [F<sup>94</sup>section 251(2) of the Taxes Act 1988].

- (2) This section shall have effect notwithstanding the [F<sup>97</sup>provisos] to section 79(1) above.

#### **Textual Amendments**

- F94** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 para. 32](#)
- F95** Word repealed by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [s. 187](#) and Sch. 17 Part V where the due date of issue of the share capital issued to a close company falls in an accounting period beginning after 31 March 1989
- F96** [S. 89\(1\)\(b\)](#) repealed by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [s. 187](#) and Sch. 17 Part V where the due date of issue of the share capital issued to a close company falls in an accounting period beginning after 31 March 1989
- F97** Word substituted by [Finance Act 1981 \(c. 35, SIF 63:2\)](#), [s. 91\(2\)\(a\)](#)

## **90 Capital gains on certain stock dividends.**

- (1) This section applies where a company issues any share capital to which section [F<sup>98</sup>249 of the Taxes Act 1988] applies in respect of shares in the company held by a person as trustee, and another person is at the time of the issue absolutely entitled thereto as against the trustee or would be so entitled but for being an infant or other person under disability (or two or more other persons are or would be jointly so entitled thereto).
- (2) Notwithstanding paragraph (a) of section 77(2) above the case shall not constitute a reorganisation of the company's share capital for the purposes of sections 77 to 79 above.
- (3) Notwithstanding [F<sup>99</sup>section 29A(1)] above (disposal at market value) the person who is or would be so entitled to the share capital (or each of the persons who are or would be jointly so entitled thereto) shall be treated for the purposes of section 32(1) (a) above as having acquired that share capital, or his interest in it, for a consideration

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equal to the appropriate amount in cash within the meaning of [F98]section 251(2) to (4) of the Taxes Act 1988].

#### Textual Amendments

- F98** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 32**
- F99** Words substituted by [Finance Act 1981 \(c. 35, SIF 63:2\)](#), **s. 90(3)(a)** in relation to acquisitions and disposals on or after 10 March 1981

#### *Quoted options*

### 91 Application of Chapter II to quoted options.

The preceding provisions of this Chapter have effect subject to section 139 below (quoted option to be regarded for the purposes of this Chapter as the shares which could be acquired by exercising the option).

## CHAPTER III

### UNIT TRUSTS ETC.

#### *Preliminary*

### 92 Interpretation.

[F100](1) Subject to subsection (2) below, in this Act—

- [F101](a) “unit trust scheme” has the same meaning as in the Financial Services Act 1986],
- (b) “authorised unit trust” has the meaning given by section [F102]468(6)] of [F102]the Taxes Act 1988],
- (c) “investment trust” has the meaning given by section [F103]842] of [F102]the Taxes Act 1988],
- (d) “court investment fund” means a common investment fund established under section 1 of the <sup>M18</sup>Administration of Justice Act 1965.

[F104](2) The Treasury may by regulations provide that any scheme of a description specified in the regulations shall be treated as not being a unit trust scheme for the purposes of this Act.

(3) Regulations under this section—

- (a) may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient, and
- (b) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.]

#### Textual Amendments

- F100** “(1)” and words commencing s. 92(1) substituted for words by [Finance Act 1987 \(c. 16\)](#), **s. 40(3)**
- F101** [S. 92\(1\)\(a\)](#) substituted by [Finance Act 1987 \(c. 16\)](#), **s. 40(3)**

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**F102** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32

**F103** Figure substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32

**F104** [S. 92\(2\)\(3\)](#) added by [Finance Act 1987 \(c. 16\)](#), **s. 40(4)**

**Modifications etc. (not altering text)**

**C136** See [S.I. 1988 No. 266](#)

**Marginal Citations**

**M18** [1965 c. 2.](#)

**93 Application of Act to unit trusts.**

This Act shall apply in relation to any unit trust scheme as if—

- (a) the scheme were a company,
- (b) the rights of the unit holders were shares in the company, and
- (c) in the case of an authorised unit trust, the company were resident and ordinarily resident in the United Kingdom.

*General*

**94** **F105** .....

**Textual Amendments**

**F105** [S. 94](#) repealed by [Finance Act 1980 \(c. 48, SIF 63:1\)](#), **ss. 81(6)**, 122 and Sch. 20 Part X

*Unit trusts*

**95** **F106** .....

**Textual Amendments**

**F106** [S. 95](#) repealed by [Finance Act 1980 \(c. 48, SIF 63:1\)](#), **s. 122** and Sch. 20 Part X

**96 Unit trusts for exempt unit holders.**

If throughout a year of assessment all the issued units in a unit trust scheme 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.

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#### Modifications etc. (not altering text)

**C137** See— Finance Act 1970 (c. 24, SIF 63:1, 2), s. 267(3); Finance Act 1974 (c. 30), s. 43(2); Development Land Tax Act 1976 (c. 24), Sch. 6 para. 1 (which Act was repealed by Finance Act 1985 (c. 54, SIF 63:2), ss. 93, 98(6) and Sch. 27 Pt. X)

97 <sup>F107</sup> .....

#### Textual Amendments

**F107** S. 97 repealed by Finance Act 1980 (c. 48, SIF 63:1), s. 122 and Sch. 20 Part X

#### 98 Transfer of company's assets to unit trust which later comes within section 96 or 97.

- (1) Where section 267 of [<sup>F108</sup>the Taxes Act 1970] (roll-over for assets transferred on company reconstruction or amalgamation) has applied on the transfer of a company's business (in whole or in part) to a unit trust scheme [<sup>F109</sup>or a company which at the time of the transfer was not such a unit trust scheme or investment trust as is mentioned in subsection (3) of that section, then if—
- (a) at any time after the transfer—
    - (i) the unit trust scheme becomes in a year of assessment one which is such as is mentioned in that subsection; or
    - (ii) the company becomes for an accounting period an investment trust such as is there mentioned, and
  - (b) at the beginning of that year of assessment or accounting period the unit trust scheme or company still owns any of the assets of the business transferred,
- the unit trust scheme or company shall be treated] for all the purposes of this Act as if immediately after the transfer it had sold, and immediately re-acquired, the assets referred to in paragraph (b) above at their market value at that time.
- (2) Notwithstanding any limitation on the time for making assessments, an assessment to corporation tax chargeable in consequence of subsection (1) above may be made at any time within six years after the end of the year of assessment [<sup>F110</sup>or accounting period] referred to in subsection (1) above, and where under this section a unit trust scheme [<sup>F110</sup>or company] is to be treated as having disposed of, and re-acquired, an asset of a business, all such recomputations of liability in respect of other disposals and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section shall be carried out.

#### Textual Amendments

- F108** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 15
- F109** Words and s. 98(1)(a)(b) substituted by Finance Act 1980 (c. 48, SIF 63:1), s. 81(3) in relation to transfers after 31 March 1980
- F110** Words inserted by Finance Act 1980 (c. 48, SIF 63:1), s. 81(3) in relation to transfers after 31 March 1980

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*Court investment funds etc.*

**99 Funds in court.**

- (1) For the purposes of section 46 above (nominees and bare trustees) funds in court held by the Accountant General shall be regarded as held by him as nominee for the persons entitled to or interested in the funds, or as the case may be for their trustees.
- (2) Where funds in court standing to an account are invested or, after investment, are realised the method by which the Accountant General effects the investment or the realisation of investments shall not affect the question whether there is for the purposes of this Act an acquisition, or as the case may be a disposal, of an asset representing funds in court standing to the account, and in particular there shall for those purposes be an acquisition or disposal of shares in a court investment fund notwithstanding that the investment in such shares of funds in court standing to an account, or the realisation of funds which have been so invested, is effected by setting off, in the Accountant General's accounts, investment in one account against realisation of investments in another.
- (3) In this section "funds in court" means—
  - (a) money in the Supreme Court, money in county courts and statutory deposits described in [F111]section 40 of the Administration of Justice Act 1982], and
  - (b) [F111]money in the Supreme Court of Judicature of Northern Ireland] and money in a county court in Northern Ireland,

and investments representing such money; and references in this section to the Accountant General are references to the Accountant General of the Supreme Court of Judicature in England and, in relation to money within paragraph (b) above and investments representing such money, include references to the Accountant General of the Supreme Court of Judicature of Northern Ireland or any other person by whom such funds are held.

**Textual Amendments**

**F111** Words substituted by [Administration of Justice Act 1982 \(c. 53\), s. 46\(2\)\(f\)](#) with effect from an appointed day

**100** <sup>F112</sup> .....

**Textual Amendments**

**F112** [S. 100](#) repealed by [Finance Act 1980 \(c. 48, SIF 63:1\)](#), [s. 122](#) and Sch. 20 Part X

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## PART V

### LAND

#### *Private residences*

#### **101 Relief on disposal of private residence.**

- (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 the permitted area.
- (2) In this section “the permitted area” means, subject to subsections (3) and (4) below, an area (inclusive of the site of the dwelling-house) of [<sup>F113</sup>0.5 of a hectare].
- (3) In any particular case the permitted area shall be such area, larger than [<sup>F113</sup>0.5 of a hectare], as the Commissioners concerned may determine if satisfied that, regard being had to the size and character of the dwelling-house, that larger area is required for the reasonable enjoyment of it (or of the part in question) as a residence.
- (4) Where part of the land occupied with a residence is and part is not within subsection (1) above, then (up to the permitted area) that part shall be taken to be within subsection (1) above which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residence.
- (5) 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.
- (6) 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 (5)(a) above affects both the husband and the wife, it must be given by both, and
  - (b) any notice under subsection (5)(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.
- (7) In this section, and sections 102 to 105 below, “the period of ownership” 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 Chapter



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II of Part II of this Act is allowable as a deduction in computing under that Chapter the amount of the gain to which this section applies, and in the case of a man and his wife living with him—

- (a) 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
- (b) if paragraph (a) above applies, but the dwelling-house or part of a dwelling-house was not the only or main residence of both throughout the period of ownership of the one making the disposal, account shall be taken of any part of that period during which it was his only or main residence as if it was also that of the other.

(8) If at any time [<sup>F114</sup>(being a time after 30th July 1978)] during an individual's period of ownership of a dwelling-house or part of a dwelling-house he—

- (a) resides in living accommodation which is for him job-related within the meaning of [<sup>F115</sup>section 356 of the Taxes Act 1988], and
- (b) intends in due course to occupy the dwelling-house or part of a dwelling-house as his only or main residence,

this section, and sections 102 to 105 below, shall apply as if the dwelling-house or part of a dwelling-house were at that time occupied by him as a residence.

[<sup>F116</sup>(8A) Section 356(3)(b) and (5) of the Taxes Act 1988 shall apply for the purposes of subsection (8) above only in relation to residence on or after 6th April 1983 in living accommodation which is job-related within the meaning of that section.]

(9) Apportionments of consideration shall be made wherever required by this section or sections 102 to 105 below and, in particular, where a person disposes of a dwelling-house only part of which is his only or main residence.

#### Textual Amendments

**F113** Words in s. 101(2)(3) substituted by Finance Act 1991 (c. 31, SIF 63:2), s. 93(1)(2) in relation to disposals on or after 19th March 1991.

**F114** Words repealed by Finance Act 1988 (c. 39, SIF 63:1, 2), s. 148 and Sch. 14 Pt. VII in relation to disposals on or after 6th April 1988

**F115** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 32

**F116** S. 101(8A) inserted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 21

#### Modifications etc. (not altering text)

**C138** See Finance Act 1984 (c. 43, SIF 63:2), s. 50(1) and Sch. 11 para. 5

**C139** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 776(9)

## 102 Amount of relief.

(1) No part of a gain to which section 101 above applies shall 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 [<sup>F117</sup>thirty-six months] of that period.

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(2) Where subsection (1) above 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 [<sup>F117</sup>thirty-six months] of the period of ownership in any event, divided by
- (b) the length of the period of ownership.

(3) For the purposes of subsections (1) and (2) above—

- (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.

(4) In this section “period of ownership” does not include any period before 6th April 1965.

[<sup>F118</sup>(5) Where at any time the number of months specified in subsections (1) and (2)(a) above is thirty-six, the Treasury may by order amend those subsections by substituting references to twenty-four for the references to thirty-six in relation to disposals on or after such date as is specified in the order.

(6) Subsection (5) above shall also have effect as if “thirty-six” (in both places) read “twenty-four” and as if “twenty-four” read “thirty-six”.

(7) Any power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.]

#### Textual Amendments

**F117** Words in s. 102(1)(2)(a) substituted by Finance Act 1991 (c. 31, SIF 63:2), s. 94(1)(4) in relation to disposals on or after 19th March 1991.

**F118** S. 102(5)-(7) inserted by Finance Act 1991 (c. 31, SIF 63:2), s. 94(2).

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**Modifications etc. (not altering text)**

**C140** Where Finance Act 1988 (c. 39, SIF 63;1, 2), s. 96 and Sch. 8 para. 8 apply (rebasings to 1982), words “6th April 1965” replaced by “31st March 1982”

**103 Amount of relief: further provisions.**

- (1) 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 section 102 above shall apply in relation to the part of the gain apportioned to the part which is not exclusively used for those purposes.
- (2) 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 section 102 above may be adjusted in such manner as the Commissioners concerned may consider to be just and reasonable.
- (3) Section 102 above shall not apply in relation to a gain if the acquisition of, or of the interest in, the dwelling-house or the part of a dwelling-house was made 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.

**104 Private residence occupied under terms of settlement.**

Sections 101 to 103 above shall also apply in relation to a gain accruing to a trustee on a disposal of settled property being an asset within section 101(1) above 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 those sections 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 section 101(5)(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.

**105 Private residence occupied by dependent relative.**

- (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 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.
- (2) If the individual so claims, such relief shall be given in respect of it and its garden or grounds as would be given under sections 101 to 103 above if the dwelling-house (or part of the dwelling-house) had been the individual’s only or main residence in the

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period of residence by the dependent relative, and shall be so given in addition to any relief available under those sections apart from this section.

- (3) Not more than one dwelling-house (or part of a dwelling-house) 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.
- (4) The Inspector, before allowing a claim, may require the claimant to show that the giving of the relief claimed will not under section (3) above preclude the giving of relief to the claimant's wife or husband or that a claim to any such relief has been relinquished.
- (5) In this section "dependent relative" means, in relation to an individual—
  - (a) any relative of his or of his wife who is incapacitated by old age or infirmity from maintaining himself, or
  - (b) his or his wife's mother who, whether or not incapacitated, is either widowed, or living apart from her husband, or a single woman in consequence of dissolution or annulment of marriage.
- (6) If the individual mentioned in subsection (5) above is a woman the references in that subsection to the individual's wife shall be construed as references to the individual's husband.

**Modifications etc. (not altering text)**

**C141** See Finance Act 1988 (c. 39, SIF 63;1, 2), s. 111 in respect of disposals on or after 6th April 1988

*Leases*

**106 Leases of land and other assets.**

Schedule 3 to this Act shall have effect as respects leases of land and of other assets.

*Part disposals*

**107 Small part disposals.**

- (1) This section applies to a transfer of land forming part only of a holding of land, where—
  - (a) the amount or value of the consideration for the transfer [<sup>F119</sup>does not exceed one-fifth of] the market value of the holding as it subsisted immediately before the transfer, and
  - (b) the transfer is not one which, by virtue of section 44 above (transfers between husband and wife) or section 273(1) of [<sup>F120</sup>the Taxes Act 1970] (transfers within groups of companies), is treated as giving rise to neither a gain nor a loss.
- (2) Subject to subsection (3) below, if the transferor so claims, the transfer shall not be treated for the purposes of this Act as a disposal, but all sums which, if it had been so treated, would have been brought into account as consideration for that disposal in the computation under Chapter II of Part II of this Act of a gain accruing on the disposal

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shall be deducted from any expenditure allowable under that Chapter as a deduction in computing a gain on any subsequent disposal of the holding.

- (3) This section shall not apply—
  - (a) if the amount or value of the consideration for the transfer exceeds [<sup>F121</sup>£20,000], or
  - (b) where in the year of assessment in which the transfer is made, the transferor made any other disposal of land, if the total amount or value of the consideration for all disposals of land made by the transferor in that year exceeds [<sup>F121</sup>£20,000].
- (4) No account shall be taken under subsection (3) above of any transfer of land to which section 108 below applies.
- (5) In relation to a transfer which is not for full consideration in money or money's worth "the amount or value of the consideration" in this section shall mean the market value of the land transferred.
- (6) For the purposes of this section the holding of land shall comprise only the land in respect of which the expenditure allowable under paragraphs (a) and (b) of section 32(1) above would be apportioned under section 35 above if the transfer had been treated as a disposal (that is, as a part disposal of the holding).
- (7) In this section references to a holding of land include references to any estate or interest in a holding of land, not being an estate or interest which is a wasting asset, and references to part of a holding shall be construed accordingly.

#### Textual Amendments

**F119** Words substituted by [Finance Act 1986 \(c. 41\), s. 60](#) in relation to disposals on or after 6 April 1986

**F120** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\), Sch. 29 para. 15](#)

**F121** "£20,000" substituted by [Finance Act 1984 \(c. 43, SIF 63:2\), s. 63\(2\)](#) in relation to disposals on or after 6 April 1983

### 108 Part disposal to authority with compulsory powers.

- (1) This section applies to a transfer of land forming part only of a holding of land to an authority exercising or having compulsory powers where—
  - (a) the amount or value of the consideration for the transfer, or if the transfer is not for full consideration in money or money's worth, the market value of the land transferred, is small, as compared with the market value of the holding as it subsisted immediately before the transfer, and
  - (b) the transferor had not taken any steps by advertising or otherwise to dispose of any part of the holding or to make his willingness to dispose of it known to the authority or others.
- (2) If the transferor so claims, the transfer shall not be treated for the purposes of this Act as a disposal, but all sums which, if it had been so treated, would have been brought into account as consideration for that disposal in the computation under Chapter II of Part II of this Act of a gain accruing on the disposal shall be deducted from any expenditure allowable under that Chapter as a deduction in computing a gain on any subsequent disposal of the holding.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (3) For the purposes of this section the holding of land shall comprise only the land in respect of which the expenditure allowable under paragraphs (a) and (b) of section 32(1) above would be apportioned under section 35 above if the transfer had been treated as a disposal (that is, as a part disposal of the holding).
- (4) In this section references to a holding of land include references to an estate or interest in a holding of land, not being an estate or interest which is a wasting asset, and references to part of a holding shall be construed accordingly.
- (5) In this section “authority exercising or having compulsory powers” means, in relation to the land transferred, a person or body of persons acquiring it compulsorily or who has or have been, or could be, authorised to acquire it compulsorily for the purposes for which it is acquired, or for whom another person or body of persons has or have been, or could be, authorised so to acquire it.

**Modifications etc. (not altering text)**

C142 S. 108(4) applied (with modifications) (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para.9

**109 Part disposal: consideration exceeding allowable expenditure.**

- (1) The provisions of sections 107(2) and 108(2) above shall have effect subject to this section.
- (2) Where the allowable expenditure is less than the consideration for the part disposal (or is nil)—
  - (a) the said provisions shall not apply, and
  - (b) if the recipient so elects (and there is any allowable expenditure)—
    - (i) the consideration for the part disposal shall be reduced by the amount of the allowable expenditure, and
    - (ii) none of that expenditure shall be allowable as a deduction in computing a gain accruing on the occasion of the part disposal or on any subsequent occasion.

In this subsection “allowable expenditure” means expenditure which, immediately before the part disposal, was attributable to the holding of land under paragraphs (a) and (b) of section 32(1) above.

**Modifications etc. (not altering text)**

C143 See Finance Act 1989 (c. 26, SIF 63:2), s. 141 and Sch. 15 para. 3

*Compulsory acquisition*

**110 Compensation paid on compulsory acquisition.**

- (1) Where land or an interest in or right over land is acquired and the acquisition is, or could have been, made under compulsory powers, then in considering whether, under section 43(4) above, the purchase price or compensation or other consideration for the acquisition should be apportioned and treated in part as a capital sum

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within section 20(1)(a) above (disposal arising on receipt of capital sum), whether as compensation for loss of goodwill or for disturbance or otherwise, or should be apportioned in any other way, the fact that the acquisition is or could have been made compulsorily, and any statutory provision treating the purchase price or compensation or other consideration as exclusively paid in respect of the land itself, shall be disregarded.

- (2) In any case where land or an interest in land is acquired as mentioned in subsection (1) above from any person and the compensation or purchase price includes an amount in respect of severance of the land comprised in the acquisition or sale from other land in which that person is entitled in the same capacity to an interest, or in respect of that other land as being injuriously affected, there shall be deemed for the purposes of this Act to be a part disposal of that other land.

## **111 Time of disposal and acquisition.**

Where an interest in land is acquired, otherwise than under a contract, by an authority possessing compulsory purchase powers the time at which the disposal and acquisition is made is the time at which the compensation for the acquisition is agreed or otherwise determined (variations on appeal being disregarded for this purpose) or, if earlier (but after 20th April 1971), the time when the authority enter on the land in pursuance of their powers.

### **[<sup>F122</sup>111A] Roll-over relief on compulsory acquisition.**

- (1) This section applies where—
- (a) on or after 6th April 1982 land (in this section referred to as “the old land”) is disposed of by any person (in this section referred to as “the landowner”) to an authority exercising or having compulsory powers; and
  - (b) the landowner did not take any steps, by advertising or otherwise, to dispose of the old land or to make his willingness to dispose of it known to the authority or others; and
  - (c) the consideration for the disposal is applied by the landowner in acquiring other land (in this section referred to as “the new land”) not being land excluded from this paragraph by section 111B below.
- (2) Subject to section 111B below, in a case where the whole of the consideration for the disposal was applied as mentioned in subsection (1)(c) above, the landowner, on making a claim as respects the consideration so applied, shall be treated for the purposes of this Act—
- (a) as if the consideration for the disposal of the old land were (if otherwise of a greater amount or value) of such amount as would secure that on the disposal neither a gain nor a loss accrues to him; and
  - (b) as if the amount or value of the consideration for the acquisition of the new land were reduced by the excess of the amount or value of the actual consideration for the disposal of the old land over the amount of the consideration which he is treated as receiving under paragraph (a) above.
- (3) If part only of the consideration for the disposal of the old land was applied as mentioned in subsection (1)(c) above, then, subject to section 111B below, if the part of the consideration which was not so applied (in this subsection referred to as “the unexpended consideration”) is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the old land, the landowner, on making a claim



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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

as respects the consideration which was so applied, shall be treated for the purposes of this Act—

- (a) as if the amount of the gain so accruing were reduced to the amount of the unexpended consideration (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 the new land were reduced by the amount by which the gain is reduced (or, as the case may be, the amount by which the chargeable gain is proportionately reduced) under paragraph (a) above.
- (4) Nothing in subsection (2) or subsection (3) above affects the treatment for the purposes of this Act of the authority by whom the old land was acquired or of the other party to the transaction involving the acquisition of the new land.
- (5) For the purposes of this section—
- (a) subsection (2) of section 115 below shall apply in relation to subsection (2)(a) and subsection (2)(b) above as it applies in relation to subsection (1)(a) and subsection (1)(b) of that section; and
  - (b) subsection (3) of that section shall apply as if any reference to the new assets were a reference to the new land, any reference to the old assets were a reference to the old land and any reference to that section were a reference to this.
- (6) Where this section applies, any such amount as is referred to in subsection (2) of section 110 above shall be treated as forming part of the consideration for the disposal of the old land and, accordingly, so much of that subsection as provides for a deemed disposal of other land shall not apply.
- (7) The provisions 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.
- (8) In this section—
- “land” includes any interest in or right over land; and
  - “authority exercising or having compulsory powers” shall be construed in accordance with section 108(5) above.]

#### Textual Amendments

**F122** Ss. 111A, 111B added by Finance Act 1982 (c. 39, SIF 63:2), s. 83

#### Modifications etc. (not altering text)

**C144** See Finance Act 1988 (c. 39, SIF 63:1, 2), s. 97 and Sch. 9 para. 2(3)

**C145** S. 111A excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para.10

[<sup>F123</sup>**111B**

- (1) Land is excluded from paragraph (c) of subsection (1) of section 111A above if—
- (a) it is a dwelling-house or part of a dwelling-house (or an interest in or right over a dwelling-house), and
  - (b) by virtue of, or of any claim under, any provision of sections 101 to 105 above (private residences) the whole or any part of a gain accruing on a disposal of it by the land-owner at a material time would not be a chargeable gain;

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

and for the purposes of this subsection “a material time” means any time during the period of six years beginning on the date of the acquisition referred to in the said paragraph (c).

- (2) If, at any time during the period of six years referred to in subsection (1) above, land which at the beginning of that period was not excluded from section 111A(1)(c) above by virtue of that subsection becomes so excluded, the amount of any chargeable gain accruing on the disposal of the old land shall be redetermined without regard to any relief previously given under section 111A above by reference to the amount or value of the consideration for the acquisition of that land; and all such adjustments of capital gains tax, whether by way of assessment or otherwise, may be made at any time, notwithstanding anything in section 34 of the Taxes Management Act 1970 (time limit for assessments).
- (3) Where the new land is a depreciating asset, within the meaning of section 117 below, that section has effect as if—
  - (a) any reference in subsection (1) or subsection (3) to section 115 or section 116 were a reference to subsection (2) or subsection (3) respectively of section 111A above; and
  - (b) paragraph (b) of subsection (2) were omitted; and
  - (c) the reference in subsection (4) to section 115(3) were a reference to that provision as applied by section 111A(5) above.
- (4) No claim may be made under section 108 above in relation to a transfer which constitutes a disposal in respect of which a claim is made under section 111A above.
- (5) Expressions used in this section have the same meaning as in section 111A above.]

#### Textual Amendments

**F123** Ss. 111A, 111B added by [Finance Act 1982 \(c. 39, SIF 63:2\)](#), s. 83

#### Modifications etc. (not altering text)

**C146** See— [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), s. 97 and Sch. 9 para. 3(2); [Finance Act 1989 \(c. 26, SIF 63:2\)](#), s. 141 and Sch. 15 para. 1(2)

### *Agricultural land and woodlands*

## 112 Grants for giving up agricultural land.

For the purposes of capital gains tax, a sum payable to an individual by virtue of a scheme under section 27 of the <sup>M19</sup>Agriculture Act 1967 (grants for relinquishing occupation of uncommercial agricultural units) shall not be treated as part of the consideration obtain by him for, or otherwise as accruing to him on, the disposal of any asset.

#### Marginal Citations

**M19** 1967 c. 22.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### 113 Woodlands.

- (1) Consideration for the disposal of trees standing or felled or cut on [<sup>F124</sup>woodlands managed by the occupier on a commercial basis and with a view to the realization of profits], and
  - (b) capital sums received under a policy of insurance in respect of the destruction of or damage or injury to trees by fire or other hazard on [<sup>F125</sup>such woodlands], shall be excluded from the computation under Chapter II of Part II of this Act of the gain accruing on the disposal if the person making the disposal is [<sup>F126</sup>the occupier.]
- (2) Subsection (1)(b) above has effect notwithstanding section 20(1) above (disposal arising on receipt of capital sum).
- (3) In the computation under Chapter II of Part II above so much of the cost of woodland in the United Kingdom shall be disregarded as is attributable to trees growing on the land.
- (4) In the computation under Chapter II of Part II above of the gain accruing on a disposal of woodland in the United Kingdom so much of the consideration for the disposal as is attributable to trees growing on the land shall be excluded.
- (5) References in this section to trees include references to saleable underwood.

#### Textual Amendments

**F124** Words substituted by Finance Act 1988 (c. 39, SIF 63;1, 2), s. 65 and Sch. 6 para. 6(5)(a)

**F125** Words substituted by Finance Act 1988 (c. 39, SIF 63;1, 2), s. 65 and Sch. 6 para. 6(5)(b)

**F126** Words substituted by Finance Act 1988 (c. 39, SIF 63;1, 2), s. 65 and Sch. 6 para. 6(5)(c)

#### Modifications etc. (not altering text)

**C147** S. 113 excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para.11

*Development land tax etc.*

### [<sup>F127</sup>114 Interaction with development land tax and other taxation.

The provisions of this Act have effect subject to—

- (a) the <sup>M20</sup>Development Land Tax Act 1976, and in particular Schedule 6 to that Act,
- (b) the taxation of development gains under Part III of the <sup>M21</sup>Finance Act 1974, which is to be terminated in accordance with the provisions of the Development Land Tax Act 1976,
- (c) the extension of the taxation of chargeable gains by Chapter II of the said Part III (the first letting charge), subject to termination in accordance with the said Act of 1976.]

#### Textual Amendments

**F127** S. 114 repealed by Finance Act 1985 (c. 54), s. 98(6) and Sch. 27 Part X with respect to disposals on or after 19 March 1985

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### Marginal Citations

**M20** 1976 c. 24.

**M21** 1974 c. 30.

## PART VI

### PROPERTY: FURTHER PROVISIONS

#### *Replacement of business assets*

#### **115 Roll-over relief.**

(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 the classes of assets listed in section 118 below, 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 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 gain nor a loss 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 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) Where subsection (1)(a) above applies to exclude a gain which, in consequence of Schedule 5 to this Act, is not all chargeable gain, the amount of the reduction to be made under subsection (1)(b) above shall be the amount of the chargeable gain, and not the whole amount of the gain.

(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 period beginning twelve months before and ending three years 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 on the time within which assessments may be made.

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (4) 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.
- (5) 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.
- (6) 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 to any necessary apportionment of consideration for an acquisition or disposal of, or of the interest in, the asset.
- (7) This section shall apply in relation to a person who, either successively or at the same time, carries on two or more trades as if both or all of them were a single trade.
- [<sup>F128</sup>(7A) In this section “period of ownership” does not include any period before 31st March 1982.]
- (8) The provisions 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.
- (9) Without prejudice to section 43(4) above (general provision 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 this section applies, and some or part of which are not, the consideration shall be apportioned in such manner as is just and reasonable.

#### Textual Amendments

**F128** S. 115(7A) added where [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), [s. 96](#) and Sch. 8 para. 9 (rebasings to 1982) apply in relation to disposals on or after 6th April 1988

#### Modifications etc. (not altering text)

**C148** See also [Capital Gains Tax Act 1979 \(c. 14\)](#), [Sch. 6 para. 22](#)

**C149** See [Finance \(No. 2\) Act 1983 \(c. 49\)](#), [s. 7\(6\)](#)

**C150** See— [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), [ss. 97, 105, 106](#) and Sch. 9 para. 2(3); [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [ss. 129, 133](#)

**C151** Ss. 115–121 restricted by [Finance Act 1990 \(c. 29, SIF 63:2\)](#), [s. 40\(5\)\(6\)](#)

**C152** Ss. 115–121 excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, [Sch. 2 para.10](#)

**C153** S. 115 excluded by [Finance Act 1991 \(c. 31, SIF 63:2\)](#), [ss. 83\(6\)\(9\)](#), 87(1)(3).

**C154** S. 115: definitions of "the old assets" and "the new assets" applied by [Finance Act 1991 \(c. 31, SIF 63:2\)](#), [s. 83\(8\)\(9\)](#).

**C155** S. 115: definition of "the new assets " applied by [Finance Act 1991 \(c. 31, SIF 63:2\)](#), [s. 87\(2\)\(3\)](#).

**C156** See— [Finance Act 1970 \(c. 24, SIF 63:1, 2\)](#), [s. 278](#); [Development Land Tax Act 1976 \(c. 24\)](#), [s. 34](#) and Sch. 6 para. 5 (which Act was repealed by [Finance Act 1985 \(c. 54, SIF 63:2\)](#), [ss. 93, 98\(6\)](#) and Sch. 27 Pt. X); [Finance Act 1976 \(c. 40\)](#), [s. 54\(3\)](#); [Finance Act 1984 \(c. 43, SIF 63:1\)](#), [ss. 50\(1\)](#), 80 and Sch. 11 para. 1; [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), [ss. 105\(5\)](#) and 106(4)

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**C157** See Capital Gains Tax Act 1979 (c. 14), s. 111A(5)(a)

**C158** See Capital Gains Tax Act 1979 (c. 14), s. 111A(5)(b)

## 116 Assets only partly replaced.

(1) Section 115(1) above 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 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 (or as the case may be the amount by which the chargeable gain is proportionately reduced) under paragraph (a) of this subsection,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes 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) Subsections (3) to (9) of section 115 above shall apply as if this section formed part of that section.

### Modifications etc. (not altering text)

**C159** Ss. 115-121 excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para. 10

**C160** See also Capital Gains Tax Act 1979 (c. 14), Sch. 6 para. 22

**C161** See Finance (No. 2) Act 1983 (c. 49), s. 7(6)

**C162** Ss. 115-121 restricted by Finance Act 1990 (c. 29, SIF 63:2), s. 40(5)(6)

**C163** See Finance Act 1984 (c. 43, SIF 63:2), ss. 50(1), 80 and Sch. 11 para. 1

## 117 New assets which are depreciating assets.

(1) Sections 115 and 116 above [<sup>F129</sup>and section 33 of the Finance Act 1990] shall have effect subject to the provisions of this section in which—

- (a) the “held over gain” means the amount by which, under those sections, and apart from the provisions of this section, any chargeable gain on one asset (called “asset No. 1”) is reduced, with a corresponding reduction of the expenditure allowable in respect of another asset (called “asset No. 2”),
- (b) any reference to a gain of any amount being carried forward to any asset is a reference to a reduction of that amount in a chargeable gain coupled with a reduction of the same amount in expenditure allowable in respect of that asset.

(2) If asset No. 2 is a depreciating asset, the held over gain shall not be carried forward, but the claimant shall be treated as if so much of the chargeable gain on asset No. 1 as is equal to the held over gain did not accrue until—

- (a) the claimant disposes of asset No. 2, or



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- (b) he ceases to use asset No. 2 for the purposes of a trade carried on by him, or
- (c) the expiration of a period of ten years beginning with the acquisition of asset No. 2,

whichever event comes first.

[<sup>F130</sup>(2A) Where section 33 of the Finance Act 1990 has effect subject to the provisions of this section, subsection (2)(b) above shall have effect as if it read—

“(b) section 36(3) of the Finance Act 1990 applies as regards asset No. 2 (whether or not by virtue of section 36(5)), or”]

(3) If, in the circumstances specified in subsection (4) below, the claimant acquires an asset (called “asset No. 3”) which is not a depreciating asset, [<sup>F131</sup>and claims] under section 115 or 116 above—

- (a) the gain held over from asset No. 1 shall be carried forward to asset No. 3, and
- (b) the claim which applies to asset No. 2 shall be treated as withdrawn (so that subsection (2) above does not apply).

(4) The circumstances are that asset No. 3 is acquired not later than the time when the chargeable gain postponed under subsection (2) above would accrue and, assuming—

- (a) that the consideration for asset No. 1 was applied in acquiring asset No. 3, and
- (b) that the time between the disposal of asset No. 1 and the acquisition of asset No. 3 was within the time limited by section 115(3) above,

the whole amount of the postponed gain could be carried forward from asset No. 1 to asset No. 3; and the claim under subsection (3) above shall be accepted as if those assumptions were true.

(5) If part only of the postponed gain could be carried forward from asset No. 1 to asset No. 3, and the claimant so requires, that and the other part of the postponed gain shall be treated as derived from two separate assets, so that, on that claim—

- (a) subsection (3) above applies to the first-mentioned part, and
- (b) the other part remains subject to subsection (2) above.

(6) For the purposes of this section, an asset is a depreciating asset at any time if—

- (a) at that time it is a wasting asset, as defined in section 37 above, or
- (b) within the period of ten years beginning at that time it will become a wasting asset (so defined).

#### Textual Amendments

**F129** Words inserted by [Finance Act 1990 \(c. 29, SIF 63:2\)](#), **s. 40(2)**

**F130** [S. 117\(2A\)](#) inserted by [Finance Act 1990 \(c. 29, SIF 63:2\)](#), **s. 40(3)**

**F131** Words substituted by [Finance Act 1990 \(c. 29, SIF 63:2\)](#), **s. 40(4)**

#### Modifications etc. (not altering text)

**C164** [Ss. 115–121](#) excluded (E.W.S.) (16.1.1992) by [S.I. 1992/58, art. 9](#), **Sch. 2 para.10**

**C165** See also [Capital Gains Tax Act 1979 \(c. 14\)](#), **Sch. 6 para. 22**

**C166** See [Finance \(No. 2\) Act 1983 \(c. 49\)](#), **s. 7(6)**

**C167** [Ss. 115–121](#) restricted by [Finance Act 1990 \(c. 29, SIF 63:2\)](#), **s. 40(5)(6)**

**C168** See also [Capital Gains Tax Act 1979 \(c. 14\)](#), **s. 111B(3)**

**C169** See [Finance Act 1984 \(c. 43, SIF 63:2\)](#), **ss. 50(1)**, 80 and [Sch. 11 para. 1](#)

**C170** See— [Finance Act 1970 \(c. 24, SIF 63:1, 2\)](#), **s. 276(2)**; [Development Land Tax Act 1976 \(c. 24\)](#), **s. 34** and [Sch. 6 para. 5](#) (which Act was repealed by [Finance Act 1985 \(c. 54, SIF 63:2\)](#), **ss. 93, 98(6)** and



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Sch. 27 Pt. X); Finance Act 1988 (c. 39, SIF 63;1, 2), s. 97 and Sch. 9 para. 3(2); Finance Act 1989 (c. 26, SIF 63:2), s. 141 and Sch. 15 para. 1(2)

## 118 Relevant classes of assets.

The classes of assets for the purposes of section 115 (1) above are as follows.

Class 1. Assets within heads A and B below.

### Head A

1. 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.
2. Any land occupied (as well as used) only for the purposes of the trade.

Head A has effect subject to section 119 below.

### Head 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, aircraft and hovercraft (“hovercraft” having the same meaning as in the <sup>M22</sup>Hovercraft Act 1968).

[<sup>F132</sup>Class 2A]

[<sup>F132</sup>Satellites, space stations and spacecraft (including launch vehicles).]

### Class 3

Goodwill.

[<sup>F133</sup>Class 4]

[<sup>F133</sup>Milk quotas (that is, rights to sell dairy produce without being liable to pay milk levy or to deliver dairy produce without being liable to pay a contribution to milk levy) and potato quotas (that is, rights to produce potatoes without being liable to pay more than the ordinary contribution to the Potato Marketing Board’s fund).]

### Textual Amendments

**F132** Class 2A inserted by Finance Act 1988 (c. 39, SIF 63;1, 2), s. 112 with respect to disposals and acquisitions on or after 28th July 1987

**F133** Class 4 inserted by Finance Act 1988 (c. 39, SIF 63;1, 2), s. 112 with respect to disposals and acquisitions on or after 30th October 1987

### Modifications etc. (not altering text)

**C171** Ss. 115–121 excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, Sch. 2 para.10

**C172** See also Capital Gains Tax Act 1979 (c. 14), Sch. 6 para. 22

**C173** See Finance (No. 2) Act 1983 (c. 49), s. 7(6)

**C174** Ss. 115–121 restricted by Finance Act 1990 (c. 29, SIF 63:2), s. 40(5)(6)

**C175** See— Finance Act 1984 (c. 43, SIF 63:1), s. 50(1) and Sch. 11 para. 1; Finance (No. 2) Act 1987 (c. 51), s. 80

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### Marginal Citations

M22 1968 c. 59.

## 119 Assets of Class 1.

- (1) This section has effect as respects head A of Class 1 in section 118 above.
- (2) Head A shall not apply where the trade is a trade—
  - (a) of dealing in or developing land, or
  - (b) of providing services for the occupier of land in which the person carrying on the trade has an estate or interest.
- (3) Where the trade is a trade of dealing in or developing land, but a profit on the sale of any land held for the purposes of the trade would not form part of the trading profits, then, as regards that land, the trade shall be treated for the purposes of subsection (2) (a) of this section as if it were not a trade of dealing in or developing land.
- (4) A person who is a lessor of tied premises shall be treated as if he occupied (as well as used) those tied premises only for the purposes of the relevant trade.

This subsection shall be construed in accordance with section [F134 98(2)] of [F134 the Taxes Act 1988] (income tax and corporation tax on tied premises).

### Textual Amendments

F134 Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

### Modifications etc. (not altering text)

C176 Ss. 115–121 excluded (E.W.S.) (16.1.1992) by [S.I. 1992/58, art. 9](#), [Sch. 2 para.10](#)

C177 See also [Capital Gains Tax Act 1979 \(c. 14\)](#), [Sch. 6 para. 22](#)

C178 See [Finance \(No. 2\) Act 1983 \(c. 49\)](#), [s. 7\(6\)](#)

C179 Ss. 115–121 restricted by [Finance Act 1990 \(c. 29, SIF 63:2\)](#), [s. 40\(5\)\(6\)](#)

C180 See [Finance Act 1984 \(c. 43, SIF 63:1\)](#), [s. 50\(1\)](#) and [Sch. 11 para. 1](#)

## 120 Trade carried on by family company: business assets dealt with by individual.

In relation to a case where—

- (a) the person disposing of, or of his interest in, the old assets and acquiring the new assets, or an interest in them, is an individual, and
- (b) the trade or trades in question are carried on not by that individual but by a company which, both at the time of the disposal and at the time of the acquisition referred to in paragraph (a) above, is his family company, within the meaning of [F135 Schedule 20 to the Finance Act 1985],

any reference in sections 115 to 119 above to the person carrying on the trade (or the two or more trades) includes a reference to that individual.

### Textual Amendments

F135 Words substituted by [Finance Act 1985 \(c. 54\)](#), [s. 70\(9\)](#) with respect to disposals (and associated acquisitions) made on or after 6 April 1985

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**Modifications etc. (not altering text)**

**C181** Ss. 115-121 excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, **Sch. 2 para.10**

**C182** See also Capital Gains Tax Act 1979 (c. 14), **Sch. 6 para. 22**

**C183** See Finance (No. 2) Act 1983 (c. 49), **s. 7(6)**

**C184** Ss. 115–121 restricted by Finance Act 1990 (c. 29, SIF 63:2), **s. 40(5)(6)**

**C185** See Finance Act 1984 (c. 43, SIF 63:1), **s. 50(1)** and Sch. 11 para. 1

**121 Activities other than trades, and interpretation.**

- (1) Sections 115 to 120 above shall apply with the necessary modifications—
- (a) in relation to the discharge of the functions of a public authority, and
  - (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, 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, and
  - (e) in relation to the activities of an unincorporated association or other body chargeable to corporation tax, being a body not established for profit whose activities are wholly or mainly carried on otherwise than for profit, but in the case of assets within head A of class 1 only if they are both occupied and used by the body, and in the case of other assets only if they are used by the body, as they apply in relation to a trade.
- (2) In sections 115 to 120 above and 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.
- (3) Sections 115 to 120 above, and this section, shall be construed as one.

**Modifications etc. (not altering text)**

**C186** Ss. 115-121 excluded (E.W.S.) (16.1.1992) by S.I. 1992/58, art. 9, **Sch. 2 para.10**

**C187** See also Capital Gains Tax Act 1979 (c. 14), **Sch. 6 para. 22**

**C188** See Finance (No. 2) Act 1983 (c. 49), **s. 7(6)**

**C189** Ss. 115–121 restricted by Finance Act 1990 (c. 29, SIF 63:2), **s. 40(5)(6)**

*Stock in trade*

**122 Appropriations to and from stock.**

- (1) Subject to subsection (3) below, where an asset acquired by a person otherwise than as trading stock of a trade carried on by him is appropriated by him for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise) and, if he had then sold the asset for its market value, a chargeable gain or allowable

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loss would have accrued to him, he shall be treated as having thereby disposed of the asset by selling it for its then market value.

- (2) If at any time an asset forming part of the trading stock of a person's trade is appropriated by him for any other purpose, or is retained by him on his ceasing to carry on the trade, he shall be treated as having acquired it at that time for a consideration equal to the amount brought into the accounts of the trade in respect of it for tax purposes on the appropriation or on his ceasing to carry on the trade, as the case may be.
- (3) Subsection (1) above shall not apply in relation to a person's appropriation of an asset for the purposes of a trade if he is chargeable to income tax in respect of the profits of the trade under Case I of Schedule D, and elects that instead the market value of the asset at the time of the appropriation shall, in computing the profits of the trade for purposes of tax, be treated as reduced by the amount of the chargeable gain or increased by the amount of the allowable loss referred to in that subsection, and where that subsection does not apply by reason of such an election, the profits of the trade shall be computed accordingly:  
 Provided that if a person making an election under this subsection is at the time of the appropriation carrying on the trade in partnership with others, the election shall not have effect unless concurred in by the others.

**Modifications etc. (not altering text)**

**C190** See *Income and Corporation Taxes Act 1988* (c. 1, SIF 63:1), **s. 777(11)**

**C191** *S. 122(3)* excluded (E.W.S.) (16.1.1992) by *S.I. 1992/58*, **art. 11(3)**

*Transfer of business to a company*

**123 Roll-over relief on transfer of business.**

- (1) This section shall apply for the purposes of this Act where a person who is not a company transfers to a company a business as a going concern, together with the whole assets of the business, or together with the whole of those assets other than cash, and the business is so transferred wholly or partly in exchange for shares issued by the company to the person transferring the business.

Any shares so received by the transferor in exchange for the business are referred to below as "the new assets".

- (2) The amount determined under subsection (4) below shall be deducted from the aggregate (referred to below as "the amount of the gain on the old assets") of the chargeable gains less allowable losses.
- (3) For the purpose of computing any chargeable gain accruing on the disposal of any new asset—
- the amount determined under subsection (4) below shall be apportioned between the new assets as a whole, and
  - the sums allowable as a deduction under section 32(1)(a) above shall be reduced by the amount apportioned to the new asset under paragraph (a) above;

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and if the shares which comprise the new assets are not all of the same class, the apportionment between the shares under paragraph (a) above shall be in accordance with their market values at the time they were acquired by the transferor.

- (4) the amount referred to in subsections (2) and (3)(a) above shall not exceed the cost of the new assets but, subject to that, the said amount shall be a fraction

$$\frac{P(1) - P(3)}{P(1)}$$

of the amount of the gain on the old assets

where—

“A” is the cost of the new assets, and

“B” is the value of the whole of the consideration received by the transferor in exchange for the business;

and for the purposes of this subsection “the cost of the new assets” means any sums which would be allowable as a deduction under section 32(1)(a) above if the new assets were disposed of as a whole in circumstances giving rise to a chargeable gain.

- (5) References in this section to the business, in relation to shares or consideration received in exchange for the business, include references to such assets of the business as are referred to in subsection (1) above.

#### Modifications etc. (not altering text)

**C192** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 28 para. 3(2)**

**C193** See [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **s. 97** and Sch. 9 para. 2(3)

**C194** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 763(5)** for variation of “B” where a 1979 Act disposal (as defined in [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 763(1)**) forms part of a transfer to which s. 123 applies

**C195** See [Capital Gains Tax Act 1979 \(c. 14\)](#), **Sch. 6 para. 23** re accrual of development gains

[<sup>F136</sup>123A

- (1) For the purposes of this Act any asset transferred on the transfer of the trade shall be deemed to be for a consideration such that no gain or loss accrues to the transferor on its transfer; and for the purposes of Schedule 5 to this Act the transferee shall be treated as if the acquisition by the transferor of any asset so transferred had been the transferee’s acquisition thereof.

- (2) This section applies only where the trade transferred is transferred from any body corporate other than a limited liability company to a harbour authority by or under a certified harbour reorganisation scheme (within the meaning of section 518 of the Taxes Act 1988) which provides also for the dissolution of the transferor.]

#### Textual Amendments

**F136** S. 123A added by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 22**

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**Modifications etc. (not altering text)**

**C196** See Finance Act 1988 (c. 39, SIF 63:1, 2), s. 96 and Sch. 8 para. 1

**C197** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 28 para. 3(2)

*Transfer of business on retirement*

**[124** <sup>F137</sup> **Relief on transfer.**

- (1) If an individual who has attained the age of 60 years—
- (a) disposes by way of sale or gift of the whole or part of a business, or
  - (b) disposes by way of sale or gift of shares or securities of a company,
- and throughout a period of at least one year ending with the disposal the relevant conditions have been fulfilled, relief shall be given under this section in respect of gains accruing to him on the disposal.
- (2) For the purposes of subsection (1) above the relevant conditions are fulfilled at any time if at that time,—
- (a) in the case of a disposal falling within paragraph (a) of that subsection, the business in question is owned either by the individual or by a company with respect to which the following conditions are at that time fulfilled, namely,—
    - (i) it is a trading company,
    - (ii) it is the individual's family company, and
    - (iii) he is a full-time working director of it;
 and
  - (b) in the case of a disposal falling within paragraph (b) of that subsection, either the conditions in sub-paragraphs (i) to (iii) of paragraph (a) above are fulfilled with respect to the company in question or the individual owns the business which, at the time of the disposal, is owned by the company;
- and in relation to a particular disposal the period, up to a maximum of 10 years, which ends with the disposal and throughout which the relevant conditions are fulfilled is in this section referred to as “the qualifying period”.
- (3) The amount available for relief under this section shall be—
- (a) in the case of an individual who has attained the age of 65 years, the relevant percentage of [<sup>F138</sup>£100,000], and
  - (b) in the case of an individual who has not attained that age, the relevant percentage of the aggregate of [<sup>F139</sup>£20,000] for every year by which his age exceeds 60 and a corresponding part of [<sup>F139</sup>£20,000] for any odd part of a year;
- and for the purpose of this subsection “the relevant percentage” means a percentage determined according to the length of the qualifying period on a scale rising arithmetically from 10 per cent. where that period is precisely one year to 100 per cent. where it is ten years.
- (4) 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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- (5) 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 chargeable assets 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),
- and for the purposes of paragraph (b) above every asset is a chargeable asset except one, on the disposal of which by the company at the time of the disposal of the shares or securities, no chargeable gain would accrue.
- (6) So far as the amount available for relief under this section is applied in giving relief to an individual as respects a disposal 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).
- (7) In arriving at the aggregate under subsection (4) or sub-section (5) 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.
- (8) 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 25 per cent., exercisable by the individual, or
  - (b) as to not less than 51 per cent., exercisable by the individual or a member of his family, and, as to not less than 5 per cent., exercisable by the individual himself,
- “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, “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,



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“trading company” has the meaning given by paragraph [F1407 of Schedule 19 to the Taxes Act 1988];

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.]

#### Textual Amendments

**F137** Ss. 124, 125 repealed by Finance Act 1985 (c. 54), ss. 69(1), 98(6) and Sch. 27 Part VII in relation to any disposal made on or after 6 April 1985 unless the qualifying period relating to the disposal ends before 6 April 1985

**F138** “£100,000” substituted by Finance Act 1984 (c. 43, SIF 63:2), s. 63(4) in relation to disposals on or after 6 April 1983

**F139** “£20,000” substituted by Finance Act 1984 (c. 43, SIF 63:2), s. 63(4) in relation to disposals on or after 6 April 1983

**F140** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 32

#### Modifications etc. (not altering text)

**C198** See— Development Land Tax Act 1976 (c. 24), s. 34 and Sch. 6 para. 1(5) (which Act was repealed by Finance Act 1985 (c. 54, SIF 63:2), ss. 93, 98(6) and Sch. 27 Pt. X); Finance Act 1984 (c. 43, SIF 63:1), s. 50(1) and Sch. 11 para. 1

**C199** See Finance Act 1985 (c. 54), ss. 69, 70 and Sch. 20

#### [F141] 125 Transfer by way of capital distribution from family company.

- (1) Subject to subsection (2) below, section 124(1)(b) above shall apply where under section 72 above (distribution which is not a new holding) the individual is treated as disposing of interests in shares or securities of a company in consideration of a capital distribution from the company in the course of dissolving or winding up the company as it applies where he disposes of shares or securities of a company by way of sale or gift.
- (2) Subsection (1) above shall not apply if the capital distribution consists wholly of chargeable business assets of the company, and if it consists partly of chargeable business assets (and partly of money or money’s worth), relief shall only be given under section 124 above in respect of that proportion of the gains accruing on the disposal which the part of the capital distribution not consisting of chargeable business assets bears to the entire capital distribution.]

#### Textual Amendments

**F141** Ss. 124, 125 repealed by Finance Act 1985 (c. 54), ss. 69(1), 98(6) and Sch. 27 Part VII in relation to any disposal made on or after 6 April 1985 unless the qualifying period relating to the disposal ends before 6 April 1985

#### Modifications etc. (not altering text)

**C200** See Finance Act 1985 (c. 54), ss. 69, 70 and Sch. 20

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### *Gifts of business assets*

#### **126 Relief for gifts of business assets.**

[<sup>F142</sup>(1) If—

- (a) an individual (in this section referred to as “the transferor”) makes a disposal otherwise than under a bargain at arm’s length of an asset within subsection (1A) below, and
- (b) a claim for relief under this section is made by the transferor and the person who acquires the asset (in this section referred to as “the transferee”) or, where the trustees of a settlement are the transferee, by the transferor alone,

then, subject to subsection (2) and sections 126A and 126B below, subsection (3) below shall apply in relation to the disposal.

(1A) An asset is within this subsection if—

- (a) it is, or is an interest in, an asset used for the purposes of a trade, profession or vocation carried on by—
  - (i) the transferor, or
  - (ii) his family company, or
  - (iii) a member of a trading group of which the holding company is his family company, or
- (b) it consists of shares or securities of a trading company, or of the holding company of a trading group, where—
  - (i) the shares or securities are neither quoted on a recognised stock exchange nor dealt in on the Unlisted Securities Market, or
  - (ii) the trading company or holding company is the transferor’s family company.]

(2) Subsection (3) below does not apply in relation to a disposal if—

- (a) in the case of a disposal of an asset, any gain accruing to the transferor on the disposal is (apart from this section) wholly relieved under [<sup>F143</sup>Schedule 20 to the Finance Act 1985], or
- (b) in the case of a disposal of shares or securities, [<sup>F143</sup>the appropriate proportion] determined under [<sup>F143</sup>paragraph 7(2) or paragraph 8(2) of Schedule 20 to the Finance Act 1985] of any gain accruing to the transferor on the disposal is (apart from this section) wholly relieved under [<sup>F143</sup>that Schedule][<sup>F144</sup>or]
- [<sup>F145</sup>(c) in the case of a disposal of qualifying corporate bonds within the meaning of section 64 of the Finance Act 1984, a gain is deemed to accrue by virtue of paragraph 10(1)(b) of Schedule 13 to that Act, or
- (d) subsection (3) of section 147A below applies in relation to the disposal (or would apply if a claim for relief were duly made under that section)].

(3) Where a claim for relief is made under this section in respect of a disposal—

- (a) the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, and
- (b) the amount of the consideration for which, apart from this section, the transferee would be regarded for the purposes of capital gains tax as having acquired the asset or, as the case may be, the shares or securities,

shall each be reduced by an amount equal to the held-over gain on the disposal.

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- (4) Part I of Schedule 4 to this Act shall have effect for extending the relief provided for by virtue of subsections (1) to (3) above in the case of agricultural property and for applying it in relation to settled property.
- (5) Subject to Part II of Schedule 4 to this Act (which provides for reductions in the held-over gain in certain cases) and subsection (6) below, the reference in subsection (3) above to the held-over gain on a disposal is a reference to the chargeable gain which would have accrued on that disposal apart from subsection (3) above and (in appropriate cases) [<sup>F143</sup>Schedule 20 to the Finance Act 1985], and in subsection (6) below that chargeable gain is referred to as the unrelieved gain on the disposal.
- (6) In any case where—
- (a) there is actual consideration (as opposed to the consideration equal to the market value which is deemed to be given by virtue of [<sup>F146</sup>section 29A(1)] above) for a disposal in respect of which a claim for relief is made under this section, and
  - (b) that actual consideration exceeds the sums allowable as a deduction under section 32 above,
- the held-over gain on the disposal shall be the amount by which the unrelieved gain on the disposal exceeds the excess referred to in paragraph (b) above.
- (7) Subject to subsection (8) below, in this section and Schedule 4 to this Act—
- (a) “family company” [<sup>F147</sup>, “holding company”, “trading company” and “trading group” have the meanings] given by [<sup>F143</sup>paragraph 1 of Schedule 20 to the Finance Act 1985],
  - (b) [<sup>F148</sup> “trading company” has the meaning given by paragraph [<sup>F149</sup>7 of Schedule 19 to the Taxes Act 1988]], and
  - (c) “trade”, “profession” and “vocation” have the same meaning as in the Income Tax Acts.
- (8) In this section and Schedule 4 to this Act and in determining whether a company is a trading company for the purposes of this section and that Schedule, the expression “trade” shall be taken to include 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.
- [<sup>F150</sup>(9) Where a disposal in respect of which a claim is made under this section is (or proves to be) a chargeable transfer for inheritance tax purposes, there shall be allowed as a deduction in computing (for capital gains tax purposes) the chargeable gain accruing to the transferee on the disposal of the asset in question an amount equal to whichever is the lesser of—
- (a) the inheritance tax attributable to the value of the asset, and
  - (b) the amount of the chargeable gain as computed apart from this subsection,
- and, in the case of a disposal which, being a potentially exempt transfer, proves to be a chargeable transfer, all necessary adjustments shall be made, whether by the discharge or repayment of capital gains tax or otherwise.
- (10) Where an amount of inheritance tax—
- (a) falls to be redetermined in consequence of the transferor’s death within seven years of making the chargeable transfer in question, or
  - (b) is otherwise varied,

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after it has been taken into account under subsection (9) above, all necessary adjustments shall be made, whether by the making of an assessment to capital gains tax or by the discharge or repayment of such tax.]

#### Textual Amendments

- F142** S. 126(1)(1A) substituted for s. 126(1) by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 1(2)(3) in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)
- F143** Words substituted by Finance Act 1985 (c. 54), s. 70(9) with respect to disposals on which relief falls to be due under Finance Act 1985 (c. 54), Sch. 20 from 6 April 1985
- F144** Word inserted by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 1(2)(3) in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)
- F145** S. 126(2)(c)(d) inserted by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 1(2)(3) in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)
- F146** Words substituted by Finance Act 1981 (c. 35, SIF 63:2), s. 90(3)(a) in relation to acquisitions and disposals on or after 10 March 1981
- F147** Words substituted by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 1(4)(a) in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)
- F148** Words repealed by Finance Act 1989 (c. 26, SIF 63:2), ss. 124, 187, Schs. 14 para. 1(4)(b) and 17 Part VII in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)
- F149** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 32
- F150** S. 126(9)(10) added by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 1(5) in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)

#### Modifications etc. (not altering text)

- C201** See— Finance Act 1980 (c. 48, SIF 63:2), s. 79(4); Finance Act 1984 (c. 43, SIF 63:1), s. 50(1) and Sch. 11 para. 1
- C202** See Finance Act 1988 (c. 39, SIF 63:1, 2), s. 97 and Sch. 9 para. 2(3)

#### [<sup>F151</sup>126] Section 126 relief: gifts to non-residents.

- (1) Section 126(3) above shall not apply where the transferee is neither resident nor ordinarily resident in the United Kingdom.
- (2) Section 126(3) above shall not apply where the transferee is an individual or a company if that individual or company—
  - (a) though resident or ordinarily resident in the United Kingdom, is regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 of the Taxes Act 1988 as resident in a territory outside the United Kingdom, and
  - (b) by virtue of the arrangements would not be liable in the United Kingdom to tax on a gain arising on a disposal of the asset occurring immediately after its acquisition.]

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**Textual Amendments**

**F151** Ss. 126A–C added by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 2 in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)

[<sup>F152</sup>**126B** **Section 126 relief: gifts to foreign-controlled companies.**

- (1) Section 126(3) above shall not apply where the transferee is a company which is within subsection (2) below.
- (2) A company is within this subsection if it is controlled by a person who, or by persons each of whom,—
  - (a) is neither resident nor ordinarily resident in the United Kingdom, and
  - (b) is connected with the person making the disposal.
- (3) For the purposes of subsection (2) above, a person who (either alone or with others) controls a company by virtue of holding assets relating to that or any other company and who is resident or ordinarily resident in the United Kingdom shall be regarded as neither resident nor ordinarily resident there if—
  - (a) he is regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 of the Taxes Act 1988 as resident in a territory outside the United Kingdom, and
  - (b) by virtue of the arrangements he would not be liable in the United Kingdom to tax on a gain arising on a disposal of the assets.]

**Textual Amendments**

**F152** Ss. 126A–C added by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 2 in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)

<sup>F153</sup>**126C** .....

**Textual Amendments**

**F153** S. 126C repealed by Finance Act 1991 (c. 31, SIF 63:2), ss. 92(1)(5), 123, Sch. 19, Pt.VI.

*Movable property*

**127 Wasting assets.**

- (1) Subject to the provisions of this section, no chargeable gain shall accrue on the disposal of, or of an interest in, an asset which is tangible movable property and which is a wasting asset.
- (2) Subsection (1) above shall not apply to a disposal of, or of an interest in, an asset—

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (a) if, from the beginning of the period of ownership of the person making the disposal to the time when the disposal is made, the asset has been used and used solely for the purposes of a trade, profession or vocation and if that person has claimed or could have claimed any capital allowance in respect of any expenditure attributable to the asset or interest under paragraph (a) or paragraph (b) of section 32(1) above (allowable expenditure), or
  - (b) if the person making the disposal has incurred any expenditure on the asset or interest which has otherwise qualified in full for any capital allowance.
- (3) In the case of the disposal of, or of an interest in, an asset which, in the period of ownership of the person making the disposal, has been used partly for the purposes of a trade, profession or vocation and partly for other purposes, or has been used for the purposes of a trade, profession or vocation for part of that period, or which has otherwise qualified in part only for capital allowances—
- (a) the consideration for the disposal, and any expenditure attributable to the asset or interest by virtue of section 32(1)(a) and (b) above, shall be apportioned by reference to the extent to which that expenditure qualified for capital allowances, and
  - (b) the computation under Chapter II of Part II above shall be made separately in relation to the apportioned parts of the expenditure and consideration, and
  - (c) subsection (1) above shall not apply to any gain accruing by reference to the computation in relation to the part of the consideration apportioned to use for the purposes of the trade, profession or vocation, or to the expenditure qualifying for capital allowances.
- (4) Subsection (1) above shall not apply 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.
- (5) This section shall be construed as one with Chapter II of Part II above.

## 128 Chattel exemption.

- (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 of value of the consideration for the disposal does not exceed [<sup>F154</sup>£6,000].
- (2) Where the amount or value of the consideration for the disposal of an asset which is tangible movable property exceeds [<sup>F154</sup>£6,000], there shall be excluded from any chargeable gain accruing on the disposal so much of it as exceeds five-thirds of the difference between—
- (a) the amount or value of the consideration, and
  - (b) [<sup>F154</sup>£6,000].
- (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 Act the amount of a loss accruing on the disposal of tangible movable property the consideration for the disposal shall, if less than [<sup>F154</sup>£6,000], be deemed to be [<sup>F154</sup>£6,000] 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

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- (b) to persons who are acting in concert or who are 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 chargeable gains, and in allowable losses, under subsections (2) and (3) above.
- (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) above 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 [<sup>F154</sup>£6,000], the part of any chargeable gain that is excluded from it under subsection (2) above shall be so much of the gain as exceeds five-thirds of the difference between that sum and [<sup>F154</sup>£6,000] multiplied by the fraction equal to the actual consideration divided by the said sum, and
  - (c) where that sum is less than [<sup>F154</sup>£6,000] any loss shall be restricted under subsection (3) above by deeming the consideration to be the actual consideration plus the said fraction of the difference between the said sum and [<sup>F154</sup>£6,000].
- (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.

#### Textual Amendments

**F154** “£6,000” substituted by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [s. 123\(1\)\(a\)](#) in respect of disposals on or after 6 April 1989

### 129 Leases of property other than land.

Schedule 3 to this Act has effect, to the extent specified in paragraph 9 of that Schedule, as respects leases of property other than land.

### 130 Passenger vehicles.

A mechanically propelled road vehicle constructed or adapted for the carriage of passengers, except for a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used, shall not be a chargeable asset; and accordingly no chargeable gain or allowable loss shall accrue on its disposal.

### 131 Decorations for valour or gallant conduct.

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.



*Status: Point in time view as at 25/07/1991.*

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### *Other property*

#### **132 Commodities and other assets without earmark.**

Sections 65 and 66 above (rules of identification), and paragraph 13 of Schedule 5 to this Act (assets held on 6th April 1965) have effect, to the extent there specified, as respects assets dealt with without identifying the particular assets disposed of or acquired.

- [<sup>F155</sup>132A
- (1) Subject to subsections (2) and (3) below, in computing for the purposes of capital gains tax, the gain accruing on the disposal by any person of any deep discount securities (within the meaning of Schedule 4 to the Taxes Act 1988)—
- (a) section 31 above shall not apply but the consideration for the disposal shall be treated as reduced by the amount mentioned in paragraph 4(1)(a) of that Schedule (including any amount mentioned in paragraph 3 of that Schedule); and
  - (b) where that amount exceeds the consideration for the disposal, the amount of the excess shall be treated as expenditure within section 32(1)(b) above incurred by that person on the security immediately before the disposal.
- (2) Subsection (3) below applies where—
- (a) there is a conversion of securities to which section 82 above applies and those securities include deep discount securities; or
  - (b) securities including deep discount securities are exchanged (or by virtue of section 86(1) above are treated as exchanged) for other securities in circumstances in which section 85(3) above applies.
- (3) Where this subsection applies—
- (a) subsection (1) and section 31 above shall not apply but any sum payable to the beneficial owner of the deep discount securities by way of consideration for their disposal (in addition to his new holding) shall be treated for the purpose of capital gains tax as reduced by the amount of the accrued income on which he is chargeable to income tax by virtue of paragraph 7(3) of Schedule 4 to the Taxes Act 1988 or, in a case where paragraph 3 of that Schedule applies, on which he would be so chargeable if that paragraph did not apply; and
  - (b) where that amount exceeds any such sum, the excess shall be treated as expenditure within section 32(1)(b) above incurred by him on the security immediately before the time of the conversion or exchange.
- (4) Where a disposal of a deep discount security is to be treated for the purposes of capital gains tax as one on which neither a gain nor a loss accrues to the person making the disposal, the consideration for which the person acquiring the security would, apart from this subsection, be treated for those purposes as having acquired the security shall be increased by the amount mentioned in paragraph 4(1)(a) of Schedule 4 to the Taxes Act 1988 (including any amount mentioned in paragraph 3 of that Schedule).]
- [<sup>F156</sup>(5) Where by virtue of paragraph 18(3) of Schedule 4 to the Taxes Act 1988 trustees are deemed for the purposes of that Schedule to dispose of a security at a particular time—
- (a) they shall be deemed to dispose of the security at that time for the purposes of this Act, and

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- (b) the disposal deemed by paragraph (a) above shall be deemed to be at the market value of the security.
- (6) Where by virtue of paragraph 18(4) of Schedule 4 to the Taxes Act 1988 trustees are deemed for the purposes of that Schedule to acquire a security at a particular time—
  - (a) they shall be deemed to acquire the security at that time for the purposes of this Act, and
  - (b) the acquisition deemed by paragraph (a) above shall be deemed to be at the market value of the security.]

#### Textual Amendments

**F155** S. 132A(1)–(4) added by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 23**

**F156** S. 132A(5)(6) added by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 96(3)**

### 133 Foreign currency for personal expenditure.

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).

### 134 Debts.

- (1) Where a person incurs a debt to another, whether in sterling or in some other currency, no chargeable gain shall accrue to that (that is the original) creditor or his personal representative or legatee on a disposal of the debt, except in the case of the debt on a security (as defined in section 82 above).
- (2) Subject to the provisions of sections 82 and 85 above (conversion of securities and company amalgamations), and subject to subsection (1) above, the satisfaction of a debt or part of it (including a debt on a security as defined in section 82 above) shall be treated as a disposal of the debt or of that part by the creditor made at the time when the debt or that part is satisfied.
- (3) Where property is acquired by a creditor in satisfaction of his debt or part of it, then subject to the provisions of sections 82 and 85 above the property shall not be treated as disposed of by the debtor or acquired by the creditor for a consideration greater than its market value at the time of the creditor's acquisition of it; but if under subsection (1) above (and in a case not falling within either of the said sections 82 and 85) no chargeable gain is to accrue on a disposal of the debt by the creditor (that is the original creditor), and a chargeable gain accrues to him on a disposal by him of the property, the amount of the chargeable gain shall (where necessary) be reduced so as not to exceed the chargeable gain which would have accrued if he had acquired the property for a consideration equal to the amount of the debt or that part of it.
- (4) A loss accruing on the disposal of a debt acquired by the person making the disposal from the original creditor or his personal representative or legatee at a time when the creditor or his personal representative or legatee is a person connected with the person making the disposal, and so acquired either directly or by one or more purchases through persons all of whom are connected with the person making the disposal, shall not be an allowable loss.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (5) Where the original creditor is a trustee and the debt, when created, is settled property, subsections (1) and (4) above shall apply as if for the references to the original creditor's personal representative or legatee there were substituted references to any person becoming absolutely entitled, as against the trustee, to the debt on its ceasing to be settled property, and to that person's personal representative or legatee.

**Modifications etc. (not altering text)**

**C203** See [Trustee Savings Banks Act 1985 \(c. 58, SIF 110\)](#), s. 5 and Sch. 2 para. 4(1)

**C204** S. 134 modified by [Finance Act 1990 \(c. 29, SIF 63:1\)](#), s. 80, [Sch. 12 para. 2\(3\)](#)

**135 Debts: foreign currency bank accounts.**

- (1) Subject to subsection (2) below, section 134(1) above shall not apply to a debt owed by a bank which is not in sterling and which is represented by a sum standing to the credit of a person in an account in the bank.
- (2) Subsection (1) above shall not apply to a sum in an individual's bank account representing currency acquired by the holder 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).

**136 Relief in respect of loans to traders.**

- (1) In this section "a qualifying loan" means a loan in the case of which—
- (a) the money lent is used by the borrower wholly for the purposes of a trade carried on by him, not being a trade which consists of or includes the lending of money, and
  - (b) the borrower is resident in the United Kingdom, and
  - (c) the borrower's debt is not a debt on a security as defined in section 82 above;
- and for the purposes of paragraph (a) above money used by the borrower for setting up a trade which is subsequently carried on by him shall be treated as used for the purposes of that trade.
- (2) In subsection (1) above references to a trade include references to a profession or vocation; and where money lent to a company is lent by it to another company in the same group, being a trading company, that subsection shall apply to the money lent to the first-mentioned company as if it had used it for any purpose for which it is used by the other company while a member of the group.
- (3) If, on a claim by a person who has made a qualifying loan, the inspector is satisfied that—
- (a) any outstanding amount of the principal of the loan has become irrecoverable, and
  - (b) the claimant has not assigned his right to recover that amount, and
  - (c) the claimant and the borrower were not each other's spouses, or companies in the same group, when the loan was made or at any subsequent time,
- this Act shall have effect as if an allowable loss equal to that amount had accrued to the claimant when the claim was made.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (4) If, on a claim by a person who has guaranteed the repayment of a loan which is, or but for subsection (1)(c) above would be, a qualifying loan, the inspector is satisfied that—
- (a) any outstanding amount of, or of interest in respect of, the principal of the loan has become irrecoverable from the borrower, and
  - (b) the claimant has made a payment under the guarantee (whether to the lender or a co-guarantor) in respect of that amount, and
  - (c) the claimant has not assigned any right to recover that amount which has accrued to him (whether by operation of law or otherwise) in consequence of his having made the payment, and
  - (d) the lender and the borrower were not each other's spouses, or companies in the same group, when the loan was made or at any subsequent time and the claimant and the borrower were not each other's spouses, and the claimant and the lender were not companies in the same group, when the guarantee was given or at any subsequent time,

this Act shall have effect as if an allowable loss had accrued to the claimant when the payment was made; and the loss shall be equal to the payment made by him in respect of the amount mentioned in paragraph (a) above less any contribution payable to him by any co-guarantor in respect of the payment so made.

- (5) Where an allowable loss has been treated under subsection (3) or (4) above as accruing to any person and the whole or any part of the outstanding amount mentioned in subsection (3)(a) or, as the case may be, subsection (4)(a) is at any time recovered by him, this Act shall have effect as if there had accrued to him at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

[<sup>F157</sup>(5A) Where—

- (a) an allowable loss has been treated under subsection (4) above as accruing to any person, and
- (b) the whole or any part of the amount of the payment mentioned in subsection (4)(b) is at any time recovered by him,

this Act shall have effect as if there had accrued to him at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

(5B) Where—

- (a) an allowable loss has been treated under subsection (3) above as accruing to a company (the first company), and
- (b) the whole or any part of the outstanding amount mentioned in subsection (3) (a) is at any time recovered by a company (the second company) in the same group as the first company,

this Act shall have effect as if there had accrued to the second company at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.

(5C) Where—

- (a) an allowable loss has been treated under subsection (4) above as accruing to a company (the first company), and
- (b) the whole or any part of the outstanding amount mentioned in subsection (4) (a), or the whole or any part of the amount of the payment mentioned in subsection (4)(b), is at any time recovered by a company (the second company) in the same group as the first company,

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this Act shall have effect as if there had accrued to the second company at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.]

- (6) For the purposes of [<sup>F158</sup>subsections (5) to (5C)] above, a person shall be treated as recovering an amount if he (or any other person by his direction) receives any money or money's worth in satisfaction of his right to recover that amount or in consideration of his assignment of the right to recover it; and where a person assigns such a right otherwise than by way of a bargain made at arm's length he shall be treated as receiving money or money's worth equal to the market value of the right at the time of the assignment.
- (7) No amount shall be treated under this section as giving rise to an allowable loss or chargeable gain in the case of any person if it falls to be taken into account in computing his income for the purposes of income tax or corporation tax.
- (8) Where an allowable loss has been treated as accruing to a person under subsection (4) above by virtue of a payment made by him at any time under a guarantee—
- (a) no chargeable gain shall accrue to him otherwise than under subsection (5) above, and
  - (b) no allowable loss shall accrue to him under this Act, on his disposal of any rights that have accrued to him (whether by operation of law or otherwise) in consequence of his having made any payment under the guarantee at or after that time.
- (9) References in this section to an amount having become irrecoverable do not include references to cases where the amount has become irrecoverable in consequence of the terms of the loan, of any arrangements of which the loan forms part, or of any act or omission by the lender or, in a case within subsection (4) above, the guarantor.
- [<sup>F159</sup>(9A) For the purposes of subsections (5B) and (5C) above two companies are in the same group if they were in the same group when the loan was made or have been in the same group at any subsequent time.]
- (10) In this section—
- (a) “spouses” means spouses who are living together (construed in accordance with section 155(2) below),
  - (b) “trading company” has the meaning given by [<sup>F160</sup>paragraph 1 of Schedule 20 to the Finance Act 1985], and
  - (c) “group” shall be construed in accordance with section 272 of [<sup>F161</sup>the Taxes Act 1970].
- (11) Subsection (3) above applies where the loan is made after 11th April 1978 and subsection (4) above applies where the guarantee is given after that date.

#### Textual Amendments

**F157** S. 136(5A)–(5C) inserted by Finance Act 1990 (c. 29, SIF 63:2), s. 83(2)(5)

**F158** Words substituted by Finance Act 1990 (c. 29, SIF 63:2), s. 83(3)(5)

**F159** S. 136(9A) inserted by Finance Act 1990 (c. 29, SIF 63:2), s. 83(4)(5)

**F160** Words substituted by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 1(4)(a) in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 107 and Sch. 12 para. 6 for claims made after 31 March 1989

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**F161** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and [32](#)

**Modifications etc. (not altering text)**

**C205** See [Finance Act 1984 \(c. 43, SIF 63:1\)](#), [s. 50\(1\)](#) and Sch. 11 para. 1

[<sup>F162</sup>**136A** **Relief for qualifying corporate bonds.**

- (1) In this section “a qualifying loan” means a loan in the case of which—
  - (a) the borrower’s debt is a debt on a security as defined in section 82 above,
  - (b) but for that fact, the loan would be a qualifying loan within the meaning of section 136 above, and
  - (c) the security is a qualifying corporate bond.
- (2) If, on a claim by a person who has made a qualifying loan, the inspector is satisfied that one of the following three conditions is fulfilled, this Act shall have effect as if an allowable loss equal to the allowable amount had accrued to the claimant when the claim was made.
- (3) The first condition is that—
  - (a) the value of the security has become negligible,
  - (b) the claimant has not assigned his right to recover an outstanding amount of the principal of the loan, and
  - (c) the claimant and the borrower are not companies which have been in the same group at any time after the loan was made.
- (4) The second condition is that—
  - (a) the security’s redemption date has passed,
  - (b) all the outstanding amount of the principal of the loan was irrecoverable (taking the facts existing on that date) or proved to be irrecoverable (taking the facts existing on a later date), and
  - (c) subsection (3)(b) and (c) above are fulfilled.
- (5) The third condition is that—
  - (a) the security’s redemption date has passed,
  - (b) part of the outstanding amount of the principal of the loan was irrecoverable (taking the facts existing on that date) or proved to be irrecoverable (taking the facts existing on a later date), and
  - (c) subsection (3)(b) and (c) above are fulfilled.
- (6) In a case where the inspector is satisfied that the first or second condition is fulfilled, the allowable amount is the lesser of—
  - (a) the outstanding amount of the principal of the loan;
  - (b) the amount of the security’s acquisition cost;
 and if any amount of the principal of the loan has been recovered the amount of the security’s acquisition cost shall for this purpose be treated as reduced (but not beyond nil) by the amount recovered.
- (7) In a case where the inspector is satisfied that the third condition is fulfilled, then—
  - (a) if the security’s acquisition cost exceeds the relevant amount, the allowable amount is an amount equal to the excess;

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- (b) if the security's acquisition cost is equal to or less than the relevant amount, the allowable amount is nil.
- (8) For the purposes of subsection (7) above the relevant amount is the aggregate of—
  - (a) the amount (if any) of the principal of the loan which has been recovered, and
  - (b) the amount (if any) of the principal of the loan which has not been recovered but which in the inspector's opinion is recoverable.
- (9) Where an allowable loss has been treated under subsection (2) above as accruing to any person and the whole or any part of the relevant outstanding amount is at any time recovered by him, this Act shall have effect as if there had accrued to him at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.
- (10) Where—
  - (a) an allowable loss has been treated under subsection (2) above as accruing to a company (the first company), and
  - (b) the whole or any part of the relevant outstanding amount is at any time recovered by a company (the second company) in the same group as the first company,this Act shall have effect as if there had accrued to the second company at that time a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered.
- (11) In subsections (9) and (10) above “the relevant outstanding amount” means—
  - (a) the amount of the principal of the loan outstanding when the claim was allowed, in a case where the inspector was satisfied that the first or second condition was fulfilled;
  - (b) the amount of the part (or the greater or greatest part) arrived at by the inspector under subsection (5)(b) above, in a case where he was satisfied that the third condition was fulfilled.
- (12) This section applies if the security was—
  - (a) issued on or after 15th March 1989, or
  - (b) issued before 15th March 1989 but held on 15th March 1989 by the person who made the loan.]

#### Textual Amendments

**F162** Ss. 136A, 136B inserted by [Finance Act 1990 \(c. 29, SIF 63:2\)](#), s. 84

#### [<sup>F163</sup>136B] **Section 136A: supplementary.**

- (1) In section 136A above “qualifying corporate bond” has the same meaning as in section 64 of the Finance Act <sup>M23</sup>1984.
- (2) For the purposes of section 136A above a security's redemption date is the latest date on which, under the terms on which the security was issued, the company or body which issued it can be required to redeem it.
- (3) For the purposes of section 136A above a security's acquisition cost is the amount or value of the consideration in money or money's worth given, by or on behalf of the



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person who made the loan, wholly and exclusively for the acquisition of the security, together with the incidental costs to him of the acquisition.

- (4) For the purposes of section 136A(10) above two companies are in the same group if they have been in the same group at any time after the loan was made.
- (5) Section 136(6) above shall apply for the purposes of section 136A(6) and (8) to (10) above as it applies for the purposes of section 136(5) above.
- (6) Section 136(7), (9) and (10)(c) above shall apply for the purposes of section 136A above and of this section as they apply for the purposes of section 136, ignoring for this purpose the words following “lender” in section 136(9).]

#### Textual Amendments

**F163** Ss. 136A, 136B inserted by Finance Act 1990 (c. 29, SIF 63:2), s. 84

#### Marginal Citations

**M23** 1984 (c. 43)(63:2).

### 137 Options and forfeited deposits.

- (1) Without prejudice to section 19 above (general provisions about the disposal of assets), the grant of an option, and in particular—
  - (a) the grant of an option in a case where the grantor binds himself to sell what he does not own, and because the option is abandoned, never has occasion to own, and
  - (b) the grant of an option in a case where the grantor binds himself to buy what, because the option is abandoned, he does not acquire,
 is the disposal of an asset (namely of the option), but subject to the following provisions of this section as to treating the grant of an option as part of a larger transaction.
- (2) If an option is exercised the grant of the option and the transaction entered into by the grantor in fulfilment of his obligations under the option shall be treated as a single transaction and accordingly—
  - (a) if the option binds the grantor to sell, the consideration for the option is part of the consideration for the sale, and
  - (b) if the option binds the grantor to buy, the consideration for the option shall be deducted from the cost of acquisition incurred by the grantor in buying in pursuance of his obligations under the option.
- (3) The exercise of an option by the person for the time being entitled to exercise it shall not constitute the disposal of an asset by that person, but, if an option is exercised then the acquisition of the option (whether directly from the grantor or not) and the transaction entered into by the person exercising the option in exercise of his rights under the option shall be treated as a single transaction and accordingly—
  - (a) if the option binds the guarantor to sell, the cost of acquiring the option shall be part of the cost of acquiring what is sold, and
  - (b) if the option binds the grantor to buy, the cost of the option shall be treated as a cost incidental to the disposal of what is bought by the grantor of the option.

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- (4) The abandonment of—
- (a) a quoted option to subscribe for shares in a company, or
  - [<sup>F164</sup>(aa) a traded option or financial option, or]
  - (b) an option to acquire assets exercisable by a person intending to use them, if acquired, for the purpose of a trade carried on by him,
- shall constitute the disposal of an asset (namely of the option); but the abandonment of any other option by the person for the time being entitled to exercise it shall not constitute the disposal of an asset by that person.
- (5) In the case of an option relating to shares or securities this section shall apply subject to the provisions of section 65 above (rules for identification: pooling) and, accordingly, the option may be regarded, in relation to the grantor or in relation to the person entitled to exercise the option, as relating to part of a holding (as defined in section 65 above) of shares or securities.
- (6) This section shall apply in relation to an option binding the grantor both to sell and to buy as if it were two separate options with half the consideration attributed to each.
- (7) In this section references to an option include references to an option binding the grantor to grant a lease for a premium or enter into any other transaction which is not a sale, and references to buying and selling in pursuance of an option shall be construed accordingly.
- (8) This section shall apply in relation to a forfeited deposit of purchase money or other consideration money for a prospective purchase or other transaction which is abandoned as it applies in relation to the consideration for an option which binds the grantor to sell and which is not exercised.
- [<sup>F165</sup>(9) In subsection (4) above and sections 138 and 139 below—
- (a) “quoted option” means an option which, at the time of the abandonment or other disposal, is quoted on a recognised stock exchange;
  - (b) “traded option” means an option which, at the time of the abandonment or other disposal, is quoted on a recognised stock exchange or a recognised futures exchange; and
  - (c) “financial option” means an option which is not a traded option, as defined in paragraph (b) above, but which, subject to subsection (10) below,—
    - (i) relates to currency, shares, securities or an interest rate and is granted (otherwise than as agent) by a member of a recognised stock exchange, by an authorised person within the meaning of the Financial Services Act 1986 or by a listed institution within the meaning of section 43 of that Act; or
    - (ii) relates to shares or securities which are dealt in on a recognised stock exchange and is granted by a member of such an exchange, acting as agent; or
    - (iii) relates to currency, shares, securities or an interest rate and is granted to such an authorised person or institution as is referred to in sub-paragraph (i) above and concurrently and in association with an option falling within that sub-paragraph which is granted by that authorised person or institution to the grantor of the first mentioned option; or

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(iv) relates to shares or securities which are dealt in on a recognised stock exchange and is granted to a member of such an exchange, including such a member acting as agent;

and in this subsection “recognised stock exchange” has the meaning given by section [F166841] of [F167the Taxes Act 1988].

- (10) If the Treasury by order so provide, an option of a description specified in the order shall be taken to be within the definition of “financial option” in subsection (9)(c) above; and the power to make an order under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.]

#### Textual Amendments

**F164** S. 137(4)(aa) substituted by Finance (No. 2) Act 1987 (c. 51), s. 81(4)

**F165** S. 137(9)(10) substituted for s. 137(9) by Finance (No. 2) Act 1987 (c. 51), s. 81(5)

**F166** Figure substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 paras. 15 and 32

**F167** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 paras. 15 and 32

#### Modifications etc. (not altering text)

**C206** See Finance Act 1988 (c. 39, SIF 63:1, 2), s. 145 and Sch. 12 para. 5(1)

**C207** See Finance Act 1982 (c. 39, SIF 63:2), s. 86 and Sch. 13 para. 7

**C208** S. 137(9)(b): definition of “traded option” applied by Finance Act 1991 (c. 31, SIF 63:2), s. 102(4).

### 138 Options: application of rules as to wasting assets.

- (1) Section 38 above (wasting assets: restriction of allowable expenditure) shall not apply—
- (a) to a quoted option to subscribe for shares in a company, or
  - [F168(aa) to a traded option or financial option, or]
  - (b) to an option to acquire assets exercisable by a person intending to use them, if acquired, for the purpose of a trade carried on by him.
- (2) In relation to the disposal by way of transfer of an option [F169(other than an option falling within subsection 1(a) or (aa) above)] binding the grantor to sell or buy quoted shares or securities, the option shall be regarded as a wasting asset the life of which ends when the right to exercise the option ends, or when the option becomes valueless, whichever is the earlier.

Subsections (6) and (7) of section 137 shall apply in relation to this subsection as they apply in relation to that section.

- (3) The preceding provisions of this section are without prejudice to the application of sections 37 to 39 above (wasting assets) to options not within those provisions.
- (4) In this section—
- [F170(a) “financial option”, “quoted option” and “traded option” have the meaning given by section 137(9) above, and]

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- (b) “quoted shares or securities” means shares or securities which have a quoted market value on a recognised stock exchange in the United Kingdom or elsewhere.

#### Textual Amendments

**F168** S. 138(1)(aa) substituted by Finance (No. 2) Act 1987 (c. 51), s. 81(6)(7)

**F169** Words substituted by Finance Act 1980 (c. 48, SIF 63:1), s. 84

**F170** S. 138(4)(a) substituted by Finance (No. 2) Act 1987 (c. 51), s. 81(6)(7)

### 139 Quoted options treated as part of new holdings.

- (1) If a quoted option to subscribe for shares in a company is dealt in (on the stock exchange where it is quoted) within three months after the taking effect, with respect to the company granting the option, of any reorganisation, reduction, conversion or amalgamation to which Chapter II of Part IV above applies, or within such longer period as the Board may by notice in writing allow—
- (a) the option shall, for the purposes of the said Chapter II (under which a holding prior to the reorganisation or reduction of capital, conversion or amalgamation is to be treated as the same as the resulting new holding) be regarded as the shares which could be acquired by exercising the option, and
- (b) section 150(3) below shall apply for determining its market value.
- (2) In this section “quoted option” has the meaning given by section 137(9) above.

## PART VII

### OTHER PROVISIONS

#### *Insurance*

### 140 Policies of insurance.

- (1) The rights of the insurer under any policy of insurance shall not constitute an asset on the disposal of which a gain may accrue, whether the risks insured relate to property or not; and the rights of the insured under any policy of insurance of the risk of any kind of damage to, or the loss or depreciation of, assets shall constitute an asset on the disposal of which a gain may accrue only to the extent that those rights relate to assets on the disposal of which a gain may accrue or might have accrued.
- (2) Notwithstanding subsection (1) above, sums received under a policy of insurance of the risk of any kind of damage to, or the loss or depreciation of, assets are for the purposes of this Act, and in particular for the purposes of section 20 above (disposal of assets by owner where any capital sum is derived from assets), sums derived from the assets.
- (3) In this section “policy of insurance” does not include a policy of assurance on human life.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**Modifications etc. (not altering text)**

**C209** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **ss. 545** and 547

**141 Disallowance of insurance premiums as expenses.**

Without prejudice to the provisions of section 33 above (exclusion of expenditure by reference to tax on income), there shall be excluded from the sums allowable as a deduction in the computation under Part II of Chapter II above of the gain accruing to a person on the disposal of an asset any premiums or other payments made under a policy of insurance of the risk of any kind of damage or injury to, or loss or depreciation of, the asset.

**142 Underwriters.**

- (1) An underwriting member of Lloyd's or of an approved association of underwriters shall, subject to the following provisions of this section, be treated for the purposes of this Act as absolutely entitled as against the trustees to the investments of his premiums trust fund, his special reserve fund (if any) and any other trust fund required or authorised by the rules of Lloyd's or the association in question, or required by the underwriting agent through whom his business or any part of it is carried on, to be kept in connection with the business.
- (2) The trustees of any premiums trust fund shall, subject to [<sup>F171</sup>subsections (2A) and (3)] below, be assessed and charged to capital gains tax as if subsection (1) above had not been passed.
- [<sup>F172</sup>(2A) Tax assessed by virtue of subsection (2) above for a year of assessment shall be assessed at a rate equivalent to the basic rate of income tax for the year; and if an assessment to tax at a higher rate is subsequently made on an underwriting member in respect of the same gains, an appropriate credit shall be given for the tax assessed on the trustees.]
- (3) The assessment to be made on the trustees of a fund by virtue of subsection (2) above for any year of assessment shall not take account of losses accruing in any previous year of assessment, and if for that or any other reason the tax paid on behalf of an underwriting member for any year of assessment by virtue of assessments so made exceeds the capital gains tax for which he is liable, the excess shall, on a claim by him, be repaid.
- (4) For the purposes of subsections (2) and (3) above the underwriting agent may be treated as a trustee of the premiums trust fund.

**Textual Amendments**

**F171** Words substituted by Finance Act 1988 (c. 39, SIF 63:1, 2), **s. 101** for 1988–89 and subsequent years

**F172** S. 142(2A) inserted by Finance Act 1988 (c. 39, SIF 63:1, 2), **s. 101** for 1988–89 and subsequent years

**Modifications etc. (not altering text)**

**C210** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **s. 450** and the Lloyd's Underwriters (Tax) Regulations 1974 (S.I. 1974 No. 896)

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

[<sup>F173</sup>142A] **Disposal of assets in premiums trust fund etc.**

- (1) Subject to subsection (4) below, for the year 1972-73 and subsequent years of assessment the chargeable gains or allowable losses accruing on the disposal of assets forming part of a premiums trust fund shall be taken to be those allocated to the corresponding underwriting year.
- (2) The amount of the gains or losses so allocated at the end of any accounting period shall be such proportion of the difference mentioned in subsection (3) below as is allocated to the underwriting year under the rules or practice of Lloyd's.
- (3) That difference is the difference between the valuations at the beginning and at the end of the accounting period of the assets forming part of the fund, the value at the beginning of the period of assets acquired during the period being taken as the cost of acquisition and the value at the end of the period of assets disposed of during the period being taken as the consideration for the disposal.
- (4) Subsections (1) to (3) above do not apply to the computation of chargeable gains or allowable losses on the disposal of gilt-edged securities as defined in Schedule 2 to this Act or of qualifying corporate bonds as defined in section 64 of the Finance Act 1984.

[ Subsection (4B) below applies where the following state of affairs exists at the <sup>F174</sup>(4A) beginning of an accounting period or the end of an accounting period—

- (a) securities have been transferred by the trustees of a premiums trust fund in pursuance of an arrangement mentioned in section 129(1) or (2) of the Taxes Act 1988 (stock lending),
  - (b) the transfer was made to enable another person to fulfil a contract or to make a transfer,
  - (c) securities have not been transferred in return, and
  - (d) the transfer made by the trustees constitutes a disposal which by virtue of section 149B(9) below is to be disregarded as there mentioned.
- (4B) The securities transferred by the trustees shall be treated for the purposes of subsection (3) above as if they formed part of the premiums trust fund at the beginning concerned or the end concerned (as the case may be).]
- (5) The Board may, by regulations made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons, provide—
    - (a) for the assessment and collection of tax charged in accordance with this section;
    - (b) for modifying the provisions of this section in relation to syndicates continuing for more than two years after the end of an underwriting year;
    - (c) .....<sup>F175</sup>
    - (d) for giving credit for foreign tax.]

[<sup>F176</sup>(6) Regulations under subsection (5) above may make provision with respect to any year or years of assessment; and the year (or any of the years) may be the one in which the regulations are made or any year falling before or after that year.

(7) But the regulations may not make provision with respect to any year of assessment which precedes the next but one preceding the year of assessment in which the regulations are made.]

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Subordinate Legislation Made

**P3** S. 142A(5)(6) power exercised by S.I.1991/851.

#### Textual Amendments

**F173** S. 142A(1)–(5) added by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 24**

**F174** S. 142A(4A)(4B) inserted by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 91(2)** in the case of transfers made by trustees after 18 August 1989 (by virtue of S.I. 1989 No. 1299)

**F175** S. 142A(5)(c) repealed by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **ss. 92(3)**, 187 and Sch. 17 Part VII

**F176** S. 142A(6)(7) added by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 92(3)**

### 143 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 interest for a consideration in money or money's worth.
- (3) Subject to subsection (2) above, the occasion of—
  - (a) the payment of the sum or sums assured by a policy of assurance, or
  - (b) the transfer of investments or other assets to the owner of a policy of assurance in accordance with the policy,
 and the occasion of the surrender of a policy of assurance, shall be the occasion of a disposal of the rights under the policy of assurance.
- (4) Subject to subsection (2) above, the occasion of the payment of the first instalment of a deferred annuity, and the occasion of the surrender of the rights under a contract for a deferred annuity, shall be the occasion of a disposal of the rights under the 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.

*Superannuation funds, annuities and annual payments*

### 144 Superannuation funds, annuities and annual payments.

No chargeable gain shall accrue to any person on the disposal of a right to, or to any part of—

- (a) any allowance, annuity or capital sum payable out of any superannuation fund, or under any superannuation scheme, established solely or mainly for persons employed in a profession, trade, undertaking or employment, and their dependants,
- (b) an annuity granted otherwise than under a contract for a deferred annuity by a company as part of its business of granting annuities on human life, whether or not including instalments of capital, or an annuity granted or deemed to be granted under the <sup>M24</sup>Government Annuities Act 1929, or
- (c) annual payments which are due under a covenant made by any person and which are not secured on any property.



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Marginal Citations

M24 1929 c. 29.

### *[<sup>F177</sup> Profit sharing and share option schemes]*

#### Textual Amendments

F177 S. 144A added by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 para. 25

### **144A Approved profit sharing and share option schemes.**

- (1) Notwithstanding anything in a profit sharing scheme approved under Schedule 9 of the Taxes Act 1988 or in paragraph 2(2) of that Schedule or in the trust instrument relating to that scheme, for the purposes of capital gains tax a person who is a participant in relation to that scheme shall be treated as absolutely entitled to his shares as against the trustees of the scheme.
- (2) For the purposes of capital gains tax—
  - (a) no deduction shall be made from the consideration for the disposal of any shares by reason only that an amount determined under section 186 or 187 of or Schedule 9 or 10 to the Taxes Act 1988 is chargeable to income tax under section 186(3) or (4) of that Act;
  - (b) any charge to income tax by virtue of section 186(3) of that Act shall be disregarded in determining whether a distribution is a capital distribution within the meaning of section 72(5)(b) above;
  - (c) nothing in any provision of section 186 or 187 of or Schedule 9 or 10 to that Act with respect to—
    - (i) the order in which any of a participant's shares are to be treated as disposed of for the purposes of those provisions as they have effect in relation to profit sharing schemes, or
    - (ii) the shares in relation to which an event is to be treated as occurring for any such purpose,shall affect the rules applicable to the computation of a gain accruing on a part disposal of a holding of shares or other securities which were acquired at different times; and
  - (d) a gain accruing on an appropriation of shares to which section 186(11) applies shall not be a chargeable gain.
- (3) In subsection (2) above “participant” and “the trust instrument” have the meanings given by section 187 of the Taxes Act 1988.
- (4) Where a right to acquire shares in a body corporate is released in consideration of the grant of a right to acquire shares in another body corporate in accordance with a provision included in a scheme pursuant to paragraph 15 of Schedule 9 to the Taxes Act 1988, the transaction shall not be treated for the purposes of this Act as involving any disposal of the first-mentioned right but for those purposes the other right shall be treated as the same asset acquired as the first-mentioned right was acquired.

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

This subsection does not apply in relation to a savings-related share option scheme, within the meaning of section 187 of that Act, unless the first-mentioned right was acquired as mentioned in section 185(1) of that Act.

*Other exemptions and reliefs*

**145 Charities.**

- (1) [<sup>F178</sup>Subject to section 505(3) of the Taxes Act 1988 and] subsection (2) below 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 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.

**Textual Amendments**

**F178** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 32**

**Modifications etc. (not altering text)**

**C211** See— [Diplomatic Privileges Act 1964 \(c. 81\)](#); [Commonwealth Secretariat Act 1966 \(c. 10\)](#); [International Organisations Act 1968 \(c. 48\)](#); [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 505**

**146 Gifts to charities etc.**

- (1) Subsection (2) below shall apply where a disposal of an asset is made otherwise than under a bargain at arm's length—
- (a) to a charity, or
  - (b) to any of the bodies mentioned in [<sup>F179</sup>Schedule 3 to the Capital Transfer Tax Act 1984] (gifts for national purposes, etc.).
- (2) [<sup>F180</sup>Section 29A(1)] above (consideration deemed to be equal to market value) and section 147(3) below 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 section 32 above, then—
- (a) the disposal and acquisition shall be treated for the purposes of this Act 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

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

shall be treated for the purposes of this Act 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 55 above) by the death of the person entitled thereto, any assets or parts of any assets forming part of settled property are, under section 54 [<sup>F181</sup>or 55] above, deemed to be disposed of and re-acquired by the trustee, and—

(a) the person becoming entitled as mentioned in section 54(1) above is a charity, or a body mentioned in [<sup>F179</sup>Schedule 3 to the Capital Transfer Tax Act 1984] (gifts for national purposes, etc.), [<sup>F182</sup>or]

[<sup>F183</sup>(b) any of the assets which, or parts of which, are deemed to be disposed of and re-acquired under section 55(1) above are held for the purposes of a charity, or a body mentioned in the said paragraph 12,]

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 [<sup>F181</sup>or the assets are so held], the disposal and re-acquisition of the assets to which the charity or other body becomes so entitled [<sup>F181</sup>or of the assets or parts of the assets which are held as mentioned in paragraph (b) above] shall, notwithstanding sections 54 [<sup>F181</sup>and 55] above, be treated for the purposes of this Act as made for such consideration as to secure that neither a gain nor a loss accrues on the disposal.

#### Textual Amendments

**F179** Words substituted by [Inheritance Tax Act 1984 \(c. 51\), s. 276](#) and Sch. 8 para. 9

**F180** Words substituted by [Finance Act 1981 \(c. 35, SIF 63:2\), s. 90\(3\)\(a\)](#) in relation to acquisitions and disposals on or after 10 April 1981

**F181** Words repealed by [Finance Act 1982 \(c. 39, SIF 63:2\), s. 157](#) and Sch. 22 Part VI in relation to disposals after 5 April 1982

**F182** Word repealed by [Finance Act 1982 \(c. 39, SIF 63:2\), s. 157](#) and Sch. 22 Part VI in relation to disposals after 5 April 1982

**F183** [S. 146\(3\)\(b\)](#) repealed by [Finance Act 1982 \(c. 39, SIF 63:2\), s. 157](#) and Sch. 22 Part VI in relation to disposals after 5 April 1982

#### Modifications etc. (not altering text)

**C212** See— [Diplomatic Privileges Act 1964 \(c. 81\)](#); [Commonwealth Secretariat Act 1966 \(c. 10\)](#); [International Organisations Act 1968 \(c. 48\)](#); [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\), s. 505](#)

**C213** See [Finance Act 1988 \(c. 39, SIF 63:1, 2\), s. 96](#) and Sch. 8 para. 1

[<sup>F184</sup>**146A**

(1) Subsection (2) below shall apply where—

- (a) a disposal of an estate or interest in land in the United Kingdom is made to a registered housing association otherwise than under a bargain at arm's length, and
- (b) a claim for relief under this section is made by the transferor and the association.

(2) Section 29A(1) above (consideration deemed to be equal to market value) shall not apply; but if the disposal is by way of gift or for a consideration not exceeding the sums allowable as a deduction under section 32 above, then—

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (a) the disposal and acquisition shall be treated for the purposes of this Act 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 estate or interest is disposed of by the association, its acquisition by the person making the earlier disposal shall be treated for the purposes of this Act as the acquisition of the association.
- (3) In this section “registered housing association” means a registered 156 housing association within the meaning of the Housing Associations Act 1985 or Part VII of the Housing (Northern Ireland) Order 1981.]

#### Textual Amendments

**F184** S. 146A added by Finance Act 1989 (c. 26, SIF 63:2), s. 125 in relation to disposals on or after 14 March 1989

#### Modifications etc. (not altering text)

**C214** See— Diplomatic Privileges Act 1964 (c. 81); Commonwealth Secretariat Act 1966 (c. 10); International Organisations Act 1968 (c. 48); Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 505

### 147 Works of art etc.

- (1) A gain accruing on the disposal of an asset by way of gift shall not be a chargeable gain if the asset is property falling within [F185 subsection (2) of section 26 of the Capital Transfer Tax Act 1984] (gifts for public benefit) and the Treasury give a direction in relation to it under [F185 subsection (1) of that section].
- (2) A gain shall not be a chargeable gain if it accrues on the disposal of an asset with respect to which a capital transfer 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 [F185 Schedule 3 to the Capital Transfer Tax Act 1984] (museums, etc), or is to such a body otherwise than by sale, or
  - (b) the disposal is to the Board in pursuance of [F185 section 230 of the Capital Transfer Tax Act 1984] or in accordance with directions given by the Treasury under section 50 or 51 of the M25 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 [F185 section 31 of the Capital Transfer Tax Act 1984], 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 54(1) [F186 or 55(1)] above, the trustee is deemed to dispose of and immediately re-acquire settled property (other than any disposal on which by virtue of section 56 above no chargeable gain or allowable loss accrues to the trustee),
 if the requisite undertaking described in [F185 the said section 31] (maintenance, preservation and access) is given by such person as the Treasury think appropriate in the circumstances of the case.

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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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- (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 capital transfer tax is chargeable under [F<sup>185</sup>section 32 of the Capital Transfer Tax Act 1984] (or would be chargeable if a capital transfer tax undertaking as well as an undertaking under this section had been given), or
  - (b) the Treasury 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 re-acquired 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 [F<sup>185</sup>section 31(1)(c), (d) or (e) of the Capital Transfer Tax Act 1984], he shall also be treated as having sold and immediately re-acquired for a consideration equal to its market value any asset associated with it; but the Treasury 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 two or more assets are associated with each other if one of them is a building falling within [F<sup>185</sup>the said section 31(1)(c)] and the other or others such land or objects as, in relation to that building, fall within [F<sup>185</sup>the said section 31(1)(d) or (e)].
- (8) If in pursuance of subsection (5) above a person is treated as having on any occasion sold an asset and capital transfer 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.
- (9) In this section “capital transfer tax undertaking” means an undertaking under [F<sup>187</sup>Chapter II of Part II or section 78 of, or Schedule 5 to, the Capital Transfer Tax Act 1984], sections 76 to 81 of the Finance Act 1976 or section 31 or 34 of the <sup>M26</sup>Finance Act 1975.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Textual Amendments

- F185** Words substituted by [Inheritance Tax Act 1984 \(c. 51\)](#), **s. 276** and Sch. 8 para. 10
- F186** Words repealed by [Finance Act 1982 \(c. 39, SIF 63:2\)](#), **s. 157** and Sch. 22 Part VI in relation to disposals after 5 April 1982
- F187** Words inserted by [Inheritance Tax Act 1984 \(c. 51\)](#), **s. 276** and Sch. 8 para. 10

#### Modifications etc. (not altering text)

- C215** See— [Diplomatic Privileges Act 1964 \(c. 81\)](#); [Commonwealth Secretariat Act 1966 \(c. 10\)](#); [International Organisations Act 1968 \(c. 48\)](#); [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 505**
- C216** See [Finance Act 1985 \(c. 54\)](#), **s. 95**
- C217** See [Capital Transfer Tax Act 1984 \(c. 51, SIF 65\)](#) and [Finance Act 1986 \(c. 41\)](#), **s. 100** for occasions when [Capital Transfer Tax Act 1984 \(c. 51, SIF 65\)](#) renamed [Inheritance Tax Act 1984 \(c. 51\)](#)
- C218** See [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **s. 96** and Sch. 8 para. 1

#### Marginal Citations

- M25** 1946 c. 64.
- M26** 1975 c. 7.

### [<sup>F188</sup>147A] Gifts on which inheritance tax is chargeable etc.

- (1) If—
- (a) an individual or the trustees of a settlement (in this section referred to as “the transferor”) make a disposal within subsection (2) below of an asset,
  - (b) the asset is acquired by an individual or the trustees of a settlement (in this section referred to as “the transferee”), and
  - (c) a claim for relief under this section is made by the transferor and the transferee or, where the trustees of a settlement are the transferee, by the transferor alone,
- then, subject to subsection (6) and section 147B below, subsection (3) below shall apply in relation to the disposal.
- (2) A disposal is within this subsection if it is made otherwise than under a bargain at arm’s length and—
- (a) is a chargeable transfer within the meaning of the [Inheritance Tax Act 1984](#) (or would be but for section 19 of that Act) and is not a potentially exempt transfer (within the meaning of that Act),
  - (b) is an exempt transfer by virtue of—
    - (i) section 24 of that Act (transfers to political parties),
    - (ii) section 26 of that Act (transfers for public benefit),
    - (iii) section 27 of that Act (transfers to maintenance funds for historic buildings etc.), or
    - (iv) section 30 of that Act (transfers of designated property),
  - (c) is a disposition to which section 57A of that Act applies and by which the property disposed of becomes held on trusts of the kind referred to in subsection (1)(b) of that section (maintenance funds for historic buildings etc.),
  - (d) by virtue of subsection (4) of section 71 of that Act (accumulation and maintenance trusts) does not constitute an occasion on which inheritance tax is chargeable under that section,

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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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- (e) by virtue of section 78(1) of that Act (transfers of works of art etc.) does not constitute an occasion on which tax is chargeable under Chapter III of Part III of that Act, or
  - (f) is a disposal of an asset comprised in a settlement where, as a result of the asset or part of it becoming comprised in another settlement, there is no charge, or a reduced charge, to inheritance tax by virtue of paragraph 9, 16 or 17 of Schedule 4 to that Act (transfers to maintenance funds for historic buildings etc.).
- (3) Where this subsection applies in relation to a disposal—
- (a) the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, and
  - (b) the amount of the consideration for which, apart from this section, the transferee would be regarded for the purposes of capital gains tax as having acquired the asset in question,
- shall each be reduced by an amount equal to the held-over gain on the disposal.
- (4) Subject to subsection (5) below, the reference in subsection (3) above to the held-over gain on a disposal is a reference to the chargeable gain which would have accrued on that disposal apart from this section.
- (5) In any case where—
- (a) there is actual consideration (as opposed to the consideration equal to the market value which is deemed to be given by virtue of any provision of this Act) for a disposal in respect of which a claim for relief is made under this section, and
  - (b) that actual consideration exceeds the sums allowable as a deduction under section 32 above,
- the held-over gain on the disposal shall be reduced by the excess referred to in paragraph (b) above or, if part of the gain on the disposal is relieved under Schedule 20 to the Finance Act 1985 (retirement relief), by so much, if any, of that excess as exceeds the part so relieved.
- (6) Subsection (3) above does not apply in relation to a disposal of assets within section 67(1) above on which a gain is deemed to accrue by virtue of paragraph 10(1) (b) of Schedule 13 to the Finance Act 1984.
- (7) In the case of a disposal within subsection (2)(a) above there shall be allowed as a deduction in computing the chargeable gain accruing to the transferee on the disposal of the asset in question an amount equal to whichever is the lesser of—
- (a) the inheritance tax attributable to the value of the asset, and
  - (b) the amount of the chargeable gain as computed apart from this subsection.
- (8) Where an amount of inheritance tax is varied after it has been taken into account under subsection (7) above, all necessary adjustments shall be made, whether by the making of an assessment to capital gains tax or by the discharge or repayment of such tax.
- (9) Where subsection (3) above applies in relation to a disposal which is deemed to occur by virtue of section 54(1) or 55(1) above, subsection (5) above shall not apply.
- (10) Where a disposal is partly within subsection (2) above, or is a disposal within paragraph (1) of that subsection on which there is a reduced charge such as is mentioned in that paragraph, the preceding provisions of this section shall have effect in relation to an appropriate part of the disposal.]



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Textual Amendments

**F188** Ss. 147A, 147B added by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [s. 124](#) and Sch. 14 para. 4 in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\)](#), [s. 79](#) in respect of a disposal before that date)

#### Modifications etc. (not altering text)

**C219** See— [Diplomatic Privileges Act 1964 \(c. 81\)](#); [Commonwealth Secretariat Act 1966 \(c. 10\)](#); [International Organisations Act 1968 \(c. 48\)](#); [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [s. 505](#)

### [<sup>F189</sup>147B] **Section 147A relief: gifts to non-residents.**

- (1) Section 147A(3) above shall not apply where the transferee is neither resident nor ordinarily resident in the United Kingdom.
- (2) Section 147A(3) above shall not apply where the transferee is an individual who—
  - (a) though resident or ordinarily resident in the United Kingdom, is regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 of the Taxes Act 1988 as resident in a territory outside the United Kingdom, and
  - (b) by virtue of the arrangements would not be liable in the United Kingdom to tax on a gain arising on a disposal of the asset occurring immediately after its acquisition.]

#### Textual Amendments

**F189** Ss. 147A, 147B added by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [s. 124](#) and Sch. 14 para. 4 in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\)](#), [s. 79](#) in respect of a disposal before that date)

#### Modifications etc. (not altering text)

**C220** See— [Diplomatic Privileges Act 1964 \(c. 81\)](#); [Commonwealth Secretariat Act 1966 \(c. 10\)](#); [International Organisations Act 1968 \(c. 48\)](#); [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [s. 505](#)

### [<sup>F190</sup>148] **Maintenance funds for historic buildings.**

- (1) This section applies where a person disposes of an asset to trustees in circumstances such that the disposal is a transfer of value which by virtue of [<sup>F191</sup>section 95 of the Finance Act 1982] (capital transfer tax: maintenance funds for historic buildings) is an exempt transfer.
- [ This section applies also where a trustee is deemed by virtue of section 54(1) above to
- <sup>F192</sup>(1A) dispose of an asset comprised in a settlement and, as a result of the asset or part of it becoming comprised in another settlement, there is by virtue of [<sup>F191</sup>paragraph 1(1) or (5) or 3(1) of Schedule 16 to the Finance Act 1982 no charge to capital transfer tax in respect of the asset deemed to be disposed of or a reduced charge to that tax by virtue of paragraph 1(2) or (8) or 3(4) of that Schedule]; but—

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (a) if part only of the asset becomes comprised in the other settlement this subsection applies only to the deemed disposal of that part; and
- (b) if the trustees of the other settlement give any consideration for the asset or part that becomes comprised in it this subsection applies only if the consideration does not exceed the sums that would be allowable as a deduction in computing the gain accruing on the deemed disposal.]

[ This section applies also where a trustee disposes (or is deemed to dispose) of an <sup>F193</sup>(1B) asset comprised in a settlement if on the disposal the asset becomes settled property in respect of which a direction has effect under section 93 of the Finance Act 1982.]

- (2) The person making the disposal 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.]

#### Textual Amendments

**F190** S. 148 repealed by Finance Act 1984 (c. 43, SIF 63:1), ss. 68, 128(6) and Sch. 23 Part VIII in relation to disposals made on or after 6 April 1984

**F191** Words substituted by Finance Act 1982 (c. 39, SIF 63:2), s. 85(2)(3)

**F192** S. 148(1A) inserted by Finance Act 1980 (c. 48, SIF 63:1), s. 82

**F193** S. 148(1B) inserted by Finance Act 1982 (c. 39, SIF 63:2), s. 85(4)

#### Modifications etc. (not altering text)

**C221** See— Diplomatic Privileges Act 1964 (c. 81); Commonwealth Secretariat Act 1966 (c. 10); International Organisations Act 1968 (c. 48); Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 505

**C222** See Finance Act 1988 (c. 39, SIF 63:1, 2), s. 96 and Sch. 8 para. 1

## 149 Employee trusts.

(1) Where—

- (a) a close company disposes of an asset to trustees in circumstances such that the disposal is a disposition which by virtue of [<sup>F194</sup>section 13 of the Capital Transfer Tax Act 1984] (employee trusts) is not a transfer of value for the purposes of capital transfer tax, or
- (b) an individual disposes of an asset to trustees in circumstances such that the disposal is an exempt transfer by virtue of [<sup>F194</sup>section 28 of the Capital Transfer Tax Act 1984] (employee trusts: capital transfer tax),

this Act shall have effect in relation to the disposal in accordance with subsections (2) and (3) below.

- (2) [<sup>F195</sup>Section 29A(1)] above (consideration deemed to be equal to market value) shall not apply to the disposal; and if the disposal is by way of gift or is for a consideration not exceeding the sums allowable as a deduction under section 32 above—
  - (a) the disposal, and the acquisition by the trustees, shall be treated for the purposes of this Act as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal, and
  - (b) where the trustees dispose of the asset, its acquisition by the company or individual shall be treated as its acquisition by the trustees.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (3) Where the disposal is by a close company, section 75(1) above (assets disposed of for less than market value) shall apply to the disposal as if for the reference to market value there were substituted a reference to market value or the sums allowable as a deduction under section 32 above, whichever is the less.
- (4) Subject to subsection (5) below, this Act shall also have effect in accordance with subsection (2) above in relation to any disposal made by a company other than a close company if—
- (a) the disposal is made to trustees otherwise than under a bargain made at arm's length, and
  - (b) the property disposed of is to be held by them on trusts of the description specified in [F194]section 86(1) of the Capital Transfer Tax Act 1984 (that is to say, those in relation to which the said section 13 of that Act has effect)] and the persons for whose benefit the trusts permit the property to be applied include all or most of either—
    - (i) the persons employed by or holding office with the company, or
    - (ii) the persons employed by or holding office with the company or any one or more subsidiaries of the company.
- (5) Subsection (4) above does not apply if the trusts permit any of the property to be applied at any time (whether during any such period as is referred to in [F194]the said section 86(1)] or later) for the benefit of—
- (a) a person who is a participator in the company (“the donor company”), or
  - (b) any other person who is a participator in any other company that has made a disposal of property to be held on the same trusts as the property disposed of by the donor company, being a disposal in relation to which this Act has had effect in accordance with subsection (2) above, or
  - (c) any other person who has been a participator in the donor company or any such company as is mentioned in paragraph (b) above at any time after, or during the ten years before, the disposal made by that company, or
  - (d) any person who is connected with a person within paragraph (a), (b) or (c) above.
- (6) The participators in a company who are referred to in subsection (5) above do not include any participator who—
- (a) is not beneficially entitled to, or to rights entitling him to acquire, 5 per cent. or more of, or of any class of the shares comprised in, its issued share capital, and
  - (b) on a winding-up of the company would not be entitled to 5 per cent. or more of its assets;
- and in determining whether the trusts permit property to be applied as mentioned in that subsection, no account shall be taken—
- (i) of any power to make a payment which is the income of any person for any of the purposes of income tax, or would be the income for any of those purposes of a person not resident in the United Kingdom if he were so resident, or
  - (ii) if the trusts are those of a profit sharing scheme approved under the M27Finance Act 1978, of any power to appropriate shares in pursuance of the scheme.
- (7) In subsection (4) above “subsidiary” has [F196]the same meaning as in [F196]the meaning given by section 736 of [F197]the Companies Act 1985] and in subsections (5) and (6) above “participator” has the meaning given in section [F198]417(1)] of [F198]the Taxes Act 1988], except that it does not include a loan creditor.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (8) In this section “close company” includes a company which, if resident in the United Kingdom, would be a close company as defined in section 155(1) below.

#### Textual Amendments

- F194** Words substituted by [Inheritance Tax Act 1984 \(c. 51\)](#), [s. 276](#) and Sch. 8 para. 11
- F195** Words substituted by [Finance Act 1981 \(c. 35, SIF 63:2\)](#), [s. 90\(3\)\(a\)](#) in relation to acquisitions and disposals on or after 10 March 1981
- F196** Words “the meaning given by section 736 of” substituted from a day to be appointed for “the same meaning as in” by [Companies Act 1989 \(c. 40\)](#), [s. 144\(4\)](#), [Sch. 18 para. 20](#)
- F197** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9\)](#), [s. 30](#) and Sch. 2
- F198** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

#### Modifications etc. (not altering text)

- C223** See— [Diplomatic Privileges Act 1964 \(c. 81\)](#); [Commonwealth Secretariat Act 1966 \(c. 10\)](#); [International Organisations Act 1968 \(c. 48\)](#); [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [s. 505](#)
- C224** See [Finance Act 1986 \(c. 41\)](#), [s. 100](#) for occasions when [Capital Transfer Tax Act 1984 \(c. 51, SIF 65\)](#) renamed [Inheritance Tax Act 1984 \(c. 51\)](#)

#### Marginal Citations

- M27** [1978 c. 42](#).

### [<sup>F199</sup> **149A** Building societies and life policies.

- (1) If in the course of or as part of an amalgamation of two or more building societies or a transfer of engagements from one building society to another, there is a disposal of an asset by one society to another, both shall be treated for the purposes of corporation tax on chargeable gains as if the asset were 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.

In this subsection “building society” means a building society within the meaning of the Building Societies Act 1986.

- (2) Where any investments or other assets are or have been, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder on or after 6th April 1967, the policy holder’s acquisition of the assets and the disposal of them to him shall be deemed to be, for the purposes of this Act, for a consideration equal to the market value of the assets.

In this subsection “life assurance business” and “insurance company” have the same meaning as in Chapter I of Part XII of the Taxes Act 1988.]

#### Textual Amendments

- F199** [Ss. 149A–149D](#) added by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 para. 26](#)

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**Modifications etc. (not altering text)**

- C225** See— Diplomatic Privileges Act 1964 (c. 81); Commonwealth Secretariat Act 1966 (c. 10); International Organisations Act 1968 (c. 48); Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 505
- C226** See Finance Act 1988 (c. 39, SIF 63:1, 2), s. 96 and Sch. 8 para. 1

[<sup>F200</sup>149B] **Miscellaneous exemptions.**

- (1) The following gains shall not be chargeable gains—
- (a) gains accruing on the disposal of stock—
    - (i) transferred to accounts in the books of the Bank of England in the name of the Treasury or the National Debt Commissioners in pursuance of any Act of Parliament; or
    - (ii) belonging to the Crown, in whatever name it may stand in the books of the Bank of England;
  - (b) any gain accruing to a person from his acquisition and disposal of assets held by him as part of a fund mentioned in section 613(4) of the Taxes Act 1988 (Parliamentary pension funds) or of which income is exempt from income tax under section 614(1) of that Act (social security supplementary schemes);
  - (c) any gain accruing to a person from his acquisition and disposal of assets held by him as part of a fund mentioned in section [<sup>F201</sup>614(2)] or paragraph (b), (c), (d), (f) or (g) of section 615(2) of the Taxes Act 1988 (India etc. pension funds) or as part of a fund to which subsection (3) of that section applies (pension funds for overseas employees);
  - (d) any gain accruing to a person from his acquisition and disposal of assets held by him as part of any fund maintained for the purpose mentioned in subsection (5)(b) of section 620 or subsection (5) of section 621 of the Taxes Act 1988 under a scheme for the time being approved under that subsection;
  - (e) any gain accruing on the disposal by the trustees of any settled property held on trusts in accordance with directions which are valid and effective under section 9 of the Superannuation and Trust Funds (Validation) Act 1927 (trust funds for the reduction of the National Debt);
  - (f) any gain accruing to a consular officer or employee, within the meaning of section 322 of the Taxes Act 1988, of any foreign state to which that section applies on the disposal of assets which at the time of the disposal were situated outside the United Kingdom;
  - (g) any gain accruing to a person from his disposal of investments if, or to such extent as the Board are satisfied that, those investments were held by him or on his behalf for the purposes of a scheme which at the time of the disposal is an exempt approved scheme;
  - (h) any gain accruing to a person on his disposal of investments held by him for the purposes of an approved personal pension scheme;
  - (j) any gain accruing to a unit holder on his disposal of units in an authorised unit trust which is also an approved personal pension scheme or is one to which section 592(10) of the Taxes Act 1988 applies.

In this subsection “exempt approved scheme” and “approved personal pension scheme” have the same meanings as in Part XIV of the Taxes Act 1988.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (2) Where a claim is made in that behalf, a gain which accrues to a person on the disposal of investments shall not be a chargeable gain for the purposes of capital gains tax if, or to such extent as the Board are satisfied that, those investments were held by him or on his behalf for the purpose of a fund to which section 608 of the Taxes Act 1988 applies.
- A claim under this subsection shall not be allowed unless the Board are satisfied that the terms on which benefits are payable from the fund have not been altered since 5th April 1980.
- [ A local authority, a local authority association and a health service body shall be
- <sup>F202</sup>(3) exempt from capital gains tax.
- (3A) In subsection (3) above—
- (a) “local authority association” has the meaning given by section 519 of the Taxes Act 1988, and
- (b) “health service body” has the meaning given by section 519A of that Act.]
- [ Any bonus to which section 326 (certified contractual savings schemes) or 326A (tax-
- <sup>F203</sup>(4) exempt special savings accounts) of the Taxes Act 1988 applies shall be disregarded for all purposes of the enactments relating to capital gains tax.]
- (5) A signatory to the Operating Agreement made pursuant to the Convention on the International Maritime Satellite Organisation which came into force on 16th July 1979, other than a signatory designated for the purposes of the Agreement by the United Kingdom in accordance with the Convention, shall be exempt from capital gains tax in respect of any payment received by that signatory from the Organisation in accordance with the Agreement.
- (6) The following shall, on a claim made in that behalf to the Board, be exempt from tax in respect of all chargeable gains—
- (a) the Trustees of the British Museum and the Trustees of the British Museum (Natural History); and
- (b) an Association within the meaning of section 508 of the Taxes Act 1988 (scientific research organisations).
- (7) The Historic Buildings and Monuments Commission for England, the Trustees of the National Heritage Memorial Fund, the United Kingdom Atomic Energy Authority and the National Radiological Protection Board shall be exempt from tax in respect of chargeable gains; and for the purposes of this subsection gains accruing from investments or deposits held for the purposes of any pension scheme provided and maintained by the United Kingdom Atomic Energy Authority shall be treated as if those gains and investments and deposits belonged to the Authority.
- (8) There shall be exempt from tax any chargeable gains accruing to the issue department of the Reserve Bank of India constituted under an Act of the Indian legislature called the Reserve Bank of India Act 1934, or to the issue department of the State Bank of Pakistan constituted under certain orders made under section 9 of the Indian Independence Act 1947.
- (9) Any disposal and acquisition made in pursuance of an arrangement mentioned in subsection (1) or (2) [<sup>F204</sup>or (2A)] of section 129 of the Taxes Act 1988 (stock lending) shall, subject to regulations under subsection (4) of that section, be disregarded for the purposes of capital gains tax.]

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- [<sup>F205</sup>(10) In subsections (1)(g) and (h) and (2) above “investments”, includes futures contracts and options contracts; and paragraph 7(3)(d) of Schedule 22 to the Taxes Act 1988 shall be construed accordingly.
- (11) For the purposes of subsection (10) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.]

#### Textual Amendments

- F200** Ss. 149A–149D added by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29 para. 26**
- F201** “614(2)” substituted by Finance Act 1988 (c. 39, SIF 63:1, 2), **s. 146** and Sch. 13 para. 17
- F202** S. 149B(3)(3A) substituted for s. 149B(3) by Finance Act 1990 (c. 29, SIF 63:2), s. 127(3), **Sch. 18 para. 3**
- F203** S. 149B(4) substituted by Finance Act 1990 (c. 29, SIF 63:1, 2), **s. 28(3)**
- F204** Words in s. 149B(9) inserted by Finance Act 1991 (c. 31, SIF 63:2), **s. 57(4)(5)**.
- F205** S. 149B(10)(11) inserted by Finance Act 1990 (c. 29, SIF 63:1, 2), **s. 81(3)(6)**

#### Modifications etc. (not altering text)

- C227** See—Diplomatic Privileges Act 1964 (c. 81); Commonwealth Secretariat Act 1966 (c. 10); International Organisations Act 1968 (c. 48); Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **s. 505**
- C228** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **s. 438(8)**
- C229** See Finance Act 1988 (c. 39, SIF 63:1, 2), **s. 145** and Sch. 12 para. 7

#### [<sup>F206</sup>149C] Business expansion schemes.

- (1) In this section “relief” means relief under Chapter III of Part VII of the Taxes Act 1988, Schedule 5 to the Finance Act 1983 (“the 1983 Act”) or Chapter II of Part IV of the Finance Act 1981 (“the 1981 Act”) and “eligible shares” has the meaning given by section 289(4) of the Taxes Act 1988.
- (2) A gain or loss which accrues to an individual on the disposal of any shares issued after 18th March 1986 in respect of which relief has been given [<sup>F207</sup>to him] and not withdrawn shall not be a chargeable gain or allowable loss for the purposes of capital gains tax.
- (3) The sums allowable as deductions from the consideration in the computation for the purposes of capital gains tax of the gain or loss accruing to an individual on the disposal of shares issued before 19th March 1986 in respect of which any relief has been given and not withdrawn shall be determined without regard to that relief, except that where those sums exceed the consideration they shall be reduced by an amount equal to—
- (a) the amount of that relief; or
  - (b) the excess,
- whichever is the less, but the foregoing provisions of this subsection shall not apply to a disposal falling within section 44(1) above.
- (4) Sections 88 and 89 of the Finance Act 1982 (identification of securities disposed of) shall not apply to shares in respect of which any relief has been given and not withdrawn; and any question—



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*Status: Point in time view as at 25/07/1991.*

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- (a) as to which of any such shares issued to a person at different times a disposal relates; or
  - (b) whether a disposal relates to such shares or to other shares;
- shall for the purposes of capital gains tax be determined as for the purposes of section 299 of the Taxes Act 1988, or section 57 of the Finance Act 1981 if the relief has only been given under that Act.
- (5) Where an individual holds shares which form part of the ordinary share capital of a company and the relief has been given (and not withdrawn) in respect of some but not others, then, if there is within the meaning of section 77 above a reorganisation affecting those shares, section 78 shall apply separately to the shares in respect of which the relief has been given (and not withdrawn) and to the other shares (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).
  - (6) Where section 44 above has applied to any eligible shares disposed of by an individual to his or her spouse (“the transferee”), subsection (2) above shall apply in relation to the subsequent disposal of the shares by the transferee to a third party.
  - (7) Where section 85 or 86 above would, but for this subsection, apply in relation to eligible shares [<sup>F208</sup>issued after 18th March 1986] in respect of which an individual has been given relief, that section shall apply only if the relief is withdrawn.
  - (8) Sections 78 to 81 above shall not apply in relation to any shares in respect of which relief (other than relief under the 1981 Act) has been given and which form part of a company’s ordinary share capital if—
    - (a) there is, by virtue of any such allotment for payment as is mentioned in section 77(2)(a) above, a reorganisation occurring after 18th March 1986 affecting those shares; and
    - (b) immediately following the reorganisation, the relief has not been withdrawn in respect of those shares or relief has been given in respect of the allotted shares and not withdrawn.
  - (9) Where relief is reduced by virtue of subsection (2) of section 305 of the Taxes Act 1988—
    - (a) the sums allowable as deductions from the consideration in the computation, for the purposes of capital gains tax, of the gain or loss accruing to an individual on the disposal, after 18th March 1986, of any of the allotted shares or debentures shall be taken to include the amount of the reduction apportioned between the allotted shares or (as the case may be) debentures in such a way as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable; and
    - (b) the sums so allowable on the disposal (in circumstances in which subsections (2) to (7) above do not apply) of any of the shares referred to in section 305(2) (a) shall be taken to be reduced by the amount mentioned in paragraph (a) above, similarly apportioned between those shares.
  - (10) There shall be made all such adjustments of capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the relief being given or withdrawn.]

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Textual Amendments

**F206** Ss. 149A–149D added by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 26**

**F207** Words inserted (*retrospectively*) by [Finance Act 1990 \(c. 29, SIF 63:1\)](#), s. 89, Sch. 14 Pt. II paras. 17(a), **19**

**F208** Words inserted (*retrospectively*) by [Finance Act 1990 \(c. 29, SIF 63:1, 2\)](#), s. 89, Sch. 14 Pt. II paras. 17(b), **19**

#### Modifications etc. (not altering text)

**C230** See— [Diplomatic Privileges Act 1964 \(c. 81\)](#); [Commonwealth Secretariat Act 1966 \(c. 10\)](#); [International Organisations Act 1968 \(c. 48\)](#); [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 505

#### [<sup>F209</sup>149D] Personal equity plans.

(1) The Treasury may make regulations providing that an individual who invests under a plan shall be entitled to relief from capital gains tax in respect of the investments.

(2) Subsections (2) to (5) of section 333 of the Taxes Act 1988 (personal equity plans) shall apply in relation to regulations under subsection (1) above as they apply in relation to regulations under subsection (1) of that section but with the substitution for any reference to income tax of a reference to capital gains tax.

[ Regulations under this section may include provision securing that losses are  
<sup>F210</sup>(2A) disregarded for the purposes of capital gains tax where they accrue on the disposal of investments on or after 18th January 1988.]

(3) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.]

#### Subordinate Legislation Made

**P4** [S. 149D](#): power previously exercised by [S.I. 1988/1348](#), 1989/469, 1990/678  
[S. 149D](#): s. 149D power exercised by [S.I. 1991/733](#)

#### Textual Amendments

**F209** Ss. 149A–149D added by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 26**

**F210** [S. 149D\(2A\)](#) inserted by [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), s. 116

#### Modifications etc. (not altering text)

**C231** See— [Diplomatic Privileges Act 1964 \(c. 81\)](#); [Commonwealth Secretariat Act 1966 \(c. 10\)](#); [International Organisations Act 1968 \(c. 48\)](#); [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 505

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## PART VIII

### SUPPLEMENTAL

#### *Valuation*

#### **150 Valuation: general.**

- (1) In this Act “market value” in relation to any assets means the price which those assets might reasonably be expected to fetch on a sale in the open market.
- (2) In estimating the market value of any assets no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole of the assets is to be placed on the market at one and the same time.
- (3) The market value of shares or securities listed in The Stock Exchange Daily Official List shall, except where in consequence of special circumstances prices quoted in that List are by themselves not a proper measure of market value, be as follows—
  - (a) the lower of the two prices shown in the quotations for the shares or securities in The Stock Exchange Daily Official List on the relevant date plus one-quarter of the difference between those two figures, or
  - (b) halfway between the highest and lowest prices at which bargains, other than bargains done at special prices, were recorded in the shares or securities for the relevant date,choosing the amount under paragraph (a) if less than that under paragraph (b), or if no such bargains were recorded for the relevant date, and choosing the amount under paragraph (b) if less than that under paragraph (a):  
Provided that—
  - (i) this subsection shall not apply to shares or securities for which The Stock Exchange provides a more active market elsewhere than on the London trading floor, and
  - (ii) if the London trading floor is closed on the relevant date the market value shall be ascertained by reference to the latest previous date or earliest subsequent date on which it is open, whichever affords the lower market value.
- (4) In this Act “market value” in relation to any rights of unit holders in any unit trust scheme the buying and selling prices of which are published regularly by the managers of the scheme shall mean an amount equal to the buying price (that is the lower price) so published on the relevant date, or if none were published on that date, on the latest date before.
- [<sup>F211</sup>(5) In relation to an asset of a kind the sale of which is subject to restrictions imposed under the <sup>M28</sup>Exchange Control Act 1947 such that part of what is paid by the purchaser is not retainable by the seller the market value, as arrived at under subsection (1), subsection (3) or subsection (4) above, shall be subject to such adjustment as is appropriate having regard to the difference between the amount payable by a purchaser and the amount receivable by a seller.]
- (6) The provisions of this section, with sections 151 to 153 below, have effect subject to Part I of Schedule 6 to this Act (market value at a time before the commencement of this Act).

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Textual Amendments

**F211** S. 150(5) repealed by Finance Act 1987 (c. 16), ss. 68(3), 72(7) and Sch. 16 Part XI except in relation to the determination of the market value of any assets at a time before 13 December 1979

#### Modifications etc. (not altering text)

**C232** S. 150(1)–(3) applied by Finance Act 1990 (c. 29, SIF 58), s. 116(5)

**C233** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), ss. 140(3), 187(2), 312(5)

**C234** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 251(5)

**C235** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 759(9)

#### Marginal Citations

**M28** 1947 c. 14.

### [<sup>F212</sup>151 Assets disposed of in a series of transactions.

If a person is given, or acquires from one or more persons with whom he is connected, by way of two or more gifts or other transactions, assets of which the aggregate market value, when considered separately in relation to the separate gifts or other transactions, is less than their aggregate market value when considered together, then for the purposes of this Act their market value, where relevant, shall be taken to be the larger market value, to be apportioned rateably to the respective disposals.]

#### Textual Amendments

**F212** S. 151 repealed by Finance Act 1985 (c. 54), ss. 71(5), 98(6) and Sch. 27 Part VII with respect to gifts or other transactions occurring after 19 March 1985

### 152 Unquoted shares and securities.

- (1) The provisions of subsection (3) below shall have effect in any case where, in relation to an asset to which this section applies, there falls to be determined by virtue of section 150(1) above the price which the asset might reasonably be expected to fetch on a sale in the open market.
- (2) The assets to which this section applies are shares and securities which are not quoted on a recognised stock exchange, within the meaning of section [<sup>F213</sup>841] of [<sup>F214</sup>the Taxes Act 1988], at the time as at which their market value for the purposes of tax on chargeable gains falls to be determined.
- (3) For the purposes of a determination falling within sub-section (1) above, it shall be assumed that, in the open market which is postulated for the purposes of that determination, there is available to any prospective purchaser of the asset in question all the information which a prudent prospective purchaser of the asset might reasonably require if he were proposing to purchase it from a willing vendor by private treaty and at arm's length.

#### Textual Amendments

**F213** Figure substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 paras. 15 and 32

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**F214** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and [32](#)

**Modifications etc. (not altering text)**

**C236** [S. 152](#) applied by [Finance Act 1990 \(c. 29, SIF 58\)](#), [s. 116\(5\)](#)

**C237** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [s. 251\(6\)](#)

**153 Value determined for capital transfer tax.**

Where on the death of any person capital transfer tax is chargeable on the value of his estate immediately before his death and the value of an asset forming part of that estate has been ascertained (whether in any proceedings or otherwise) for the purposes of that tax, the value so ascertained shall be taken for the purposes of this Act to be the market value of that asset at the date of the death.

*Other provisions*

**154 Income tax decisions.**

Any assessment to income tax or decision on a claim under the Income Tax Acts, and any decision on an appeal under the Income Tax Acts against such an assessment or decision, shall be conclusive so far as under Chapter II of Part II of this Act, or any other provision of this Act, liability to tax depends on the provisions of the Income Tax Acts.

**155 Interpretation.**

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

“allowable loss” has the meaning given by section 29 above,

“the Board” means the Commissioners of Inland Revenue,

“chargeable gain” has the meaning given by section 28(2) above,

“chargeable period” means a year of assessment or an accounting period of a company for purposes of corporation tax,

“close company” has the meaning given by sections [<sup>F215</sup>414 and 415] of [<sup>F215</sup>the Taxes Act 1988],

“company” includes any body corporate or unincorporated association but does not include a partnership, and shall be construed in accordance with section 93 above (application of Act to unit trusts),

“control” shall be construed in accordance with section [<sup>F216</sup>416] of [<sup>F215</sup>the Taxes Act 1988],

“inspector” means any inspector of taxes,

“land” includes messuages, tenements, and hereditaments, houses and buildings of any tenure,

[<sup>F217</sup>“local authority” has the meaning given by section 842A of the Taxes Act 1988,]

“married woman living with her husband”: see subsection (2) below,

“part disposal” has the meaning given by section 19(2) above,

“personal representatives” has the meaning given by section [<sup>F215</sup>701(4)] of [<sup>F215</sup>the Taxes Act 1988],

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“quoted” on a stock exchange, or recognised stock exchange, in the United Kingdom: see subsection (3) below,

[<sup>F218</sup>“recognised stock exchange” has the meaning given by section 841 of the Taxes Act 1988,]

[<sup>F219</sup>“the Taxes Act 1970” and “the Taxes Act 1988” mean the <sup>M29</sup>Income and Corporation Taxes Act 1970 and <sup>M30</sup>Income and Corporation Taxes Act 1988 respectively,]

“trade” has the same meaning as in the Income Tax Acts,

“trading stock” has the meaning given by section [<sup>F215</sup>100(2)] of [<sup>F215</sup>the Taxes Act 1988],

“wasting asset” has the meaning given by section 37 above and paragraph 1 of Schedule 3 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 “1979-80” and so on indicate years of assessment as in the Income Tax Acts.

[<sup>F220</sup>(1A) In this Act “retail prices index” shall have the same meaning as in the Income Tax Acts and, accordingly, any reference in this Act to the retail prices index shall be construed in accordance with section 833(2) of the Taxes Act 1988.]

(2) References in this Act to a married woman living with her husband shall be construed in accordance with section [<sup>F221</sup>282] of [<sup>F215</sup>the Taxes Act 1988].

(3) References in this Act to quotation on a stock exchange in the United Kingdom or a recognised stock exchange in the United Kingdom shall be construed as references to listing in the Official List of The Stock Exchange.

[<sup>F222</sup>(3A) In this Act “recognised futures exchange” means the London International Financial Futures Exchange and any other futures exchange which is for the time being designated for the purposes of this Act by order made by the Board.

(3B) An order made by the Board under subsection (3A) above—

(a) may designate a futures exchange by name or by reference to any class or description of futures exchanges, including, in the case of futures exchanges in a country outside the United Kingdom, a class or description framed by reference to any authority or approval given in that country; and

(b) may contain such transitional and other supplemental provisions as appear to the Board to be necessary or expedient.]

(4) The Table below indexes other general definitions in this Act.

<i>Expression defined</i>	<i>Reference</i>
“Absolutely entitled as against the trustee”	S. 46(2).
“Authorised unit trust”	s. 92
“Branch or agency”	S. 12(3).
“Class”, in relation to shares or securities.	S. 64(1).

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“Connected”, in references to persons being connected with one another.	S. 63.
“Court investment fund”	S. 92.
“Gilt-edged securities”	Schedule 2.
“Investment trust”	S. 92.
“Issued”, in relation to shares or debentures	S.64(2).
“Lease” and cognate expressions	Paragraph 10(1) of Schedule 3.
“Legatee”	S. 47(2)(3)
“Market value”	Ss. 150 to 153; Part I of Schedule 6.
“Resident” and “ordinarily resident”	S. 18(1).
“Settled property”	S. 51.
“Shares”	S. 64(1).
“Unit trust scheme”	S. 92.

(5) ..... F223

#### Textual Amendments

- F215** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32
- F216** Figure substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32
- F217** Definition inserted by [Finance Act 1990 \(c. 29, SIF 63:1, 2\)](#), **s. 127(2)(4)**
- F218** Definition inserted by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), **s. 124** and Sch. 14 para. 6(2) in relation to disposals on or after 14th March 1989 (except where relief given under [Finance Act 1980 \(c. 48\)](#), **s. 79** in respect of a disposal before that date)
- F219** Definitions substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 paras. 15** and 32
- F220** [S. 155\(1A\)](#) inserted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 27**
- F221** Figure substituted by [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **s. 146** and Sch. 13 para. 18
- F222** [S. 155\(3A\)\(3B\)](#) inserted by [Finance Act 1985 \(c. 54\)](#), **s. 72(6)**
- F223** [S. 155\(5\)](#) repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 844** and Sch. 31

#### Modifications etc. (not altering text)

- C238** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 576(5)**

#### Marginal Citations

- M29** 1970 c. 10.
- M30** 1988 c. 1.



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

## PART IX

### GENERAL

#### 156 Commencement.

- (1) Except as otherwise provided by this Part of this Act, this Act shall come into force in relation to tax for the year 1979-80 and subsequent years of assessment, and tax for other chargeable periods beginning after 5th April 1979.
- (2) The following provisions of this Act, that is—
  - (a) so much of any provision of this Act as authorises the making of any order or other instrument,
  - (b) except where the tax concerned is all tax for chargeable periods to which this Act does not apply, so much of any provision of this Act as confers any power or imposes any duty the exercise or performance of which operates or may operate in relation to tax for more than one chargeable period,
 shall come into force for all purposes on 6th April 1979 to the exclusion of the corresponding enactments repealed by this Act.

#### 157 Savings, transitory provisions and consequential amendments.

- (1) Schedule 6 to this Act, which contains transitory provisions and savings, shall have effect, and the repeals made by section 158(1) below have effect subject to that Schedule.
- [<sup>F224</sup>(1A) No letters patent granted or to be granted by the Crown to any person, city, borough or town corporate of any liberty, privilege, or exemption from subsidies, tolls, taxes, assessments or aids, and no statute which grants any salary, annuity or pension to any person free of any taxes, deductions or assessments, shall be construed or taken to exempt any person, city, borough or town corporate, or any inhabitant of the same, from tax chargeable in pursuance of this Act.]
- (2) For the avoidance of doubt it is hereby declared that this Act has effect subject to those provisions of the Taxes Act and other enactments relating to chargeable gains which are not repealed by this Act; and with a view to preserving the existing effect of such enactments as are mentioned in Schedule 7 to this Act, they shall be amended in accordance with that Schedule.
- (3) The provisions of the said Schedule 7, and the other provisions of this Part of this Act, are without prejudice to the provisions of the <sup>M31</sup>Interpretation Act 1978 as respects the effect of repeals.
- (4) This section and the said Schedules 6 and 7 shall come into force on the passing of this Act.

#### Textual Amendments

**F224** S. 157(1A) inserted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 para. 28](#)

#### Marginal Citations

**M31** 1978 c. 30.

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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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**158 Repeals.**

- (1) The enactments and instruments mentioned in Schedule 8 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) The said repeals shall come into force in accordance with section 156 above.

**159 Continuity and construction of references to old and new law.**

- (1) The continuity of the operation of the law relating to chargeable gains shall not be affected by the substitution of this Act for the repealed enactments.
- (2) Any reference, whether express or implied, in any enactment, instrument or document (including this Act and any enactment amended by Schedule 7 to this Act) to, or to things done or falling to be done under or for the purposes of, any provision of this Act shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.
- (3) Any reference, whether express or implied, in any enactment, instrument or document (including the repealed enactments and enactments, instruments and documents passed or made after the passing of this Act) to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.
- (4) In this section “the repealed enactments” means the enactments repealed by this Act.

**160 Short title.**

This Act may be cited as the Capital Gains Tax Act 1979.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 5.

#### [<sup>F225</sup>APPLICATION OF EXEMPT AMOUNT IN PARTICULAR CASES]

##### **Textual Amendments**

**F225** Heading substituted by [Finance Act 1982 \(c. 39, SIF 63:2\)](#), **s. 80(3)** for 1982–83 et seq.

#### *Preliminary*

- 1 In this Schedule references to any subsections not otherwise identified are references to subsections of section 5 of this Act.

#### *Husband and wife*

- [<sup>F226</sup>2 (1) For any year of assessment during which a married woman is living with her husband [<sup>F227</sup>subsections (1) and (4)] shall apply to them as if [<sup>F228</sup>the exempt amount for the year] were divided between them—
- (a) in proportion to their respective taxable amounts for that year (disregarding for this purpose paragraphs (a) and (b) of subsection (4)), or
  - (b) where the aggregate of those amounts does not exceed [<sup>F229</sup>the exempt amount for the year] and allowable losses accruing to either of them in a previous year are carried forward from that year, in such other proportion as they may agree.
- (2) Sub-paragraph (1) above shall also apply for any year of assessment during a part of which (being a part beginning with 6th April) a married woman is living with her husband but—
- (a) her taxable amount for that year shall not include chargeable gains or allowable losses accruing to her in the remainder of the year, and
  - (b) [<sup>F230</sup>subsections (1) and (4)] shall apply to her (without the modification in sub-paragraph (1) above) for the remainder of the year as if it were a separate year of assessment.]

##### **Textual Amendments**

**F226** [Sch. 1 paras. 2, 3](#) repealed by [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), **s. 148** and [Sch. 14 Pt. VIII](#) from 1990–91

**F227** Words substituted by [Finance Act 1980 \(c. 48, SIF 63:1\)](#), **s. 77(4)(b)** for 1980–81 et seq.

**F228** Words substituted by [Finance Act 1982 \(c. 39, SIF 63:2\)](#), **s. 80(3)** for 1982–83 et seq.

**F229** Words substituted by [Finance Act 1982 \(c. 39, SIF 63:2\)](#), **s. 80(3)(a)** for 1982–83 et seq.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**F230** Words substituted by [Finance Act 1980 \(c. 48, SIF 63:1\)](#), [s. 77\(4\)\(c\)](#) for 1980–81 et seq.

- 3 (1) For any year of assessment during which or during a part of which (being a part beginning with 6th April) the individual is a married man whose wife is living with him and in relation to whom section 45(1) of this Act applies subsection (5) shall apply as if—
- (a) the chargeable gains accruing to him in the year included those accruing to her in the year or the part of the year, and
  - (b) all the disposals of assets made by her in the year or the part of the year were made by him.
- (2) Subsection (5) shall not apply for any year of assessment during which or during a part of which (being a part beginning with 6th April)—
- (a) the individual is a married man whose wife is living with him but in relation to whom the said section 45(1) does not apply, or
  - (b) the individual is a married woman living with her husband.

#### *Personal representatives*

- 4 For the year of assessment in which an individual dies and for the two next following years of assessment, [<sup>F231</sup>subsections (1), (4) and (5)] shall apply to his personal representatives as they apply to an individual.

#### **Textual Amendments**

**F231** Words substituted by [Finance Act 1980 \(c. 48, SIF 63:1\)](#), [s. 77\(4\)\(c\)](#) for 1980–81 et seq.

#### *Trustees*

- 5 (1) For any year of assessment during the whole or part of which settled property is held on trusts which secure that, during the lifetime of a mentally disabled person or a person in receipt of attendance allowance,
- [<sup>F232</sup>(a) not less than half of the property which is applied is applied for the benefit of that person, and
  - (b) that person is entitled to not less than half of the income arising from the property, or no such income may be applied for the benefit of any other person]
- [<sup>F233</sup>subsections (1), (4) and (5)] shall apply to the trustees of the settlement as they apply to an individual.
- [<sup>F234</sup>(1A) The trusts on which settled property is held shall not be treated as falling outside sub-paragraph (1) above by reason only of the powers conferred on the trustees by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958 (powers of advancement); and the reference in that sub-paragraph to the life-time of a person shall, where the income from the settled property is held for his benefit on trusts of the kind described in section 33 of the Trustee Act 1925

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(protective trusts), be construed as a reference to the period during which the income is held on trust for him.

- (1B) In relation to a settlement which is one of two or more qualifying settlements comprised in a group, this paragraph shall have effect as if for the references in section 5 of this Act to [F235the exempt amount for the year] there were substituted references to [F235one tenth of that exempt amount] or, if it is more, to such amount as results from dividing [F235the exempt amount for the year] by the number of settlements in the group.
- (1C) For the purposes of sub-paragraph (1B) above—
- (a) a qualifying settlement is any settlement (other than an excluded settlement) which is made on or after 10th March 1981 and to the trustees of which this paragraph applies for the year of assessment; and
  - (b) all qualifying settlements in relation to which the same person is the settlor constitute a group.
- (1D) If, in consequence of two or more persons being settlors in relation to it, a settlement is comprised in two or more groups comprising different numbers of settlements, sub-paragraph (1B) above shall apply to it as if the number by which [F236the exempt amount for the year] is to be divided were the number of settlements in the largest group.]
- (2) In this paragraph “mentally disabled person” means a person who by reason of mental disorder within the meaning of the [F237Mental Health Act 1983] is incapable of administering his property or managing his affairs and “attendance allowance” means an allowance under section 35 of the M32Social Security Act 1975 or the M33Social Security (Northern Ireland) Act 1975 [F238; and “settlor” and “excluded settlement” have the same meanings as in paragraph 6 below].
- [F239(3) An inspector may by notice in writing require any person, being a party to a settlement, to furnish him within such time as he may direct (not being less than twenty-eight days) with such particulars as he thinks necessary for the purposes of this paragraph.]

#### Textual Amendments

- F232** Sch. 1 para. 5(1)(a)(b) substituted for words by Finance Act 1981 (c. 35, SIF 63:2), s. 89(2) for 1981–82 et seq.
- F233** Words substituted by Finance Act 1980 (c. 48, SIF 63:1), s. 77(4)(c) for 1980–81 et seq.
- F234** Sch. 1 para. 5(1A)–(1D) inserted by Finance Act 1981 (c. 35, SIF 63:2), s. 89(3) for 1981–82 et seq.
- F235** Words substituted by Finance Act 1982 (c. 39, SIF 63:2), s. 80(3)(b)(c) for 1982–83 et seq.
- F236** Words substituted by Finance Act 1982 (c. 39, SIF 63:2), s. 80(3) for 1982–83 et seq.
- F237** Words substituted by Mental Health Act 1983 (c. 20), Sch. 4 para. 49
- F238** Words added by Finance Act 1981 (c. 35, SIF 63:2), s. 89(4) for 1981–82 et seq.
- F239** Sch. 1 para. 5(3) added by Finance Act 1981 (c. 35, SIF 63:2), s. 89(5) for 1981–82 et seq.

#### Modifications etc. (not altering text)

- C239** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 715(8)

#### Marginal Citations

- M32** 1975 c. 14.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**M33** 1975 c. 15.

- 6 (1) For any year of assessment during the whole or part of which any property is settled property, not being a year of assessment for which paragraph 5(1) above applies, [F<sup>240</sup>subsections (1), (4) and (5)] shall apply to the trustees of a settlement as they apply to an individual but with the following modifications.
- [F<sup>241</sup>(2) In subsections (1) and (4) for [F<sup>242</sup>“the exempt amount for the year”] there shall be substituted [F<sup>242</sup>“one half of the exempt amount for the year”].
- (3) Subsection (5) shall apply only to the trustees of a settlement made before 7th June 1978 and, in relation to such trustees, shall have effect with the substitution for [F<sup>242</sup>“the exempt amount for the year”] and [F<sup>242</sup>“twice the exempt amount for the year”] of “one half of the exempt amount for the year” and “the exempt amount for the year” respectively].
- (4) In relation to a settlement which is one of two or more qualifying settlements comprised in a group, sub-paragraph (2) above shall have effect as if for the reference to [F<sup>242</sup>“one half of the exempt amount for the year”] there were substituted a reference to [F<sup>242</sup>“one tenth of that exempt amount”] or, if it is more, to such amount as results from dividing [F<sup>242</sup>one half of the exempt amount for the year] by the number of settlements in the group.
- (5) For the purposes of sub-paragraph (4) above—
- (a) a qualifying settlement is any settlement (other than an excluded settlement) which is made after 6th June 1978 and to the trustees of which this paragraph applies for the year of assessment; and
  - (b) all qualifying settlements in relation to which the same person is the settlor constitute a group.
- (6) If, in consequence of two or more persons being settlors in relation to it, a settlement is comprised in two or more groups comprising different numbers of settlements, sub-paragraph (4) above shall apply to it as if the number by which [F<sup>242</sup>one half of the exempt amount for the year] is to be divided were the number of settlements in the largest group.
- (7) In this paragraph “settlor” has the meaning given by section [F<sup>243</sup>681(4)] of [F<sup>243</sup>the Taxes Act 1988] and includes, in the case of a settlement arising under a will or intestacy, the testator or intestate and “excluded settlement” means—
- (a) any settlement the trustees of which are not for the whole or any part of the year of assessment treated under section 52(1) of this Act as resident and ordinarily resident in the United Kingdom; and
  - (b) any settlement the property comprised in which—
    - (i) is held for charitable purposes only and cannot become applicable for other purposes; or
    - (ii) is held for the purposes of any such scheme or fund as is mentioned in sub-paragraph (8) below (retirement benefits and compensation funds).

[ The schemes and funds referred to in sub-paragraph (7)(b)(ii) above are funds to F<sup>244</sup>(8) which section 615(3) of the Taxes Act 1988 applies, schemes and funds approved

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under section 620 or 621 of that Act, sponsored superannuation schemes as defined in section 624 of that Act and exempt approved schemes and statutory schemes as defined in Chapter I of Part XIV of that Act].

- (9) An inspector may by notice in writing require any person, being a party to a settlement, to furnish him within such time as he may direct (not being less than twenty-eight days) with such particulars as he thinks necessary for the purposes of this paragraph].

#### Textual Amendments

**F240** Words substituted by Finance Act 1980 (c. 48, SIF 63:1), s. 78(2) for 1980–81 et seq.

**F241** Sch. 1 para. 6(2)–(9) substituted for para. 6(2)–(5) by Finance Act 1980 (c. 48, SIF 63:1), s. 78(3) for 1980–81 et seq.

**F242** Words substituted by Finance Act 1982 (c. 39, SIF 63:2), s. 80(3) for 1982–83 et seq.

**F243** Words substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 paras. 15 and 32

**F244** Sch. 1 para. 6(8) substituted by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29 paras. 15 and 32

## SCHEDULE 2

Section 64(1).

### GILT-EDGED SECURITIES

#### PART I

- 1 For the purposes of this Act “gilt-edged securities” means the securities specified in Part II of this Schedule, and such of the following securities, denominated in sterling and issued after 15th April 1969, as may be specified by order made by the Treasury by statutory instrument, namely—

- (a) stocks and bonds issued under section 12 of the <sup>M34</sup>National Loans Act 1968, and
- (b) [<sup>F245</sup>stocks and bonds guaranteed by the Treasury and issued under the Electricity (Scotland) Acts 1943 to 1954, the Electricity Acts 1947 and 1957] . . . <sup>F246</sup>.

#### Textual Amendments

**F245** Words repealed by Electricity Act 1989 (c. 29), s. 112 and Sch. 18 from a day to be appointed

**F246** Words repealed by Gas Act 1986 (c. 44), s. 67(4) and Sch. 9 Part II

#### Modifications etc. (not altering text)

**C240** See also Capital Gains Tax Act 1979 (c. 14), Sch. 6 para. 19

#### Marginal Citations

**M34** 1968 c. 13.



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- 2 The Treasury shall cause particulars of any order made under paragraph 1 above to be published in the London and Edinburgh Gazettes as soon as may be after the order is made.
- 3 Section 14(b) of the <sup>M35</sup>Interpretation Act 1978 (implied power to amend orders made by statutory instrument) shall not apply to the power of making orders under paragraph 1 above.

**Marginal Citations**

**M35** 1978 c. 30.

**PART II**

EXISTING GILT-EDGED SECURITIES

*Stocks and bonds charged on the National Loans Fund*

11½%	Treasury Stock 1979
3 %	Treasury Stock 1979
10½%	Treasury Stock 1979
9 %	Treasury Convertible Stock 1980
4 %	British Overseas Airways Stock 1974-80
9½%	Treasury Stock 1980
3½%	Treasury Stock 1977-80
5¼%	Funding Loan 1978-80
13 %	Exchequer Stock 1980
11½%	Treasury Stock 1981
3½%	Treasury Stock 1979-81
9¾%	Treasury Stock 1981
8¼%	Exchequer Stock 1981
9½%	Exchequer Stock 1981
3 %	Exchequer Stock 1981
	Variable Rate Treasury Stock 1981
12¾%	Exchequer Stock 1981
8½%	Treasury Loan 1980-82
3 %	Treasury Stock 1982
14 %	Treasury Stock 1982

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2½%	British Overseas Airways Stock 1977-82 Variable Rate Treasury Stock 1982
8¼%	Treasury Stock 1982
9¼%	Exchequer Stock 1982
8¾%	Exchequer Stock 1983
3 %	British Overseas Airways Stock 1980-83
3 %	Exchequer Stock 1983
12 %	Treasury Loan 1983
9¼%	Treasury Stock 1983
10 %	Exchequer Stock 1983
5½%	Funding Stock 1982-84
12¼%	Exchequer Stock 1985
8½%	Treasury Loan 1984-86
6½%	Funding Loan 1985-87
7¾%	Treasury Loan 1985-88
3 %	British Transport Stock 1978-88
5 %	Treasury Stock 1986-89
13 %	Treasury Stock 1990
8¼%	Treasury Loan 1987-90
11¾%	Treasury Stock 1991
5¾%	Funding Loan 1987-91
12¾%	Treasury Loan 1992
10 %	Treasury Stock 1992
12¼%	Exchequer Stock 1992
12½%	Treasury Loan 1993
6 %	Funding Loan 1993
13¾%	Treasury Loan 1993
14½%	Treasury Loan 1994
12½%	Exchequer Stock 1994
9 %	Treasury Loan 1994
12 %	Treasury Stock 1995
10¼%	Exchequer Stock 1995
12¾%	Treasury Loan 1995
9 %	Treasury Loan 1992-96
15¼%	Treasury Loan 1996

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

13¼%	Exchequer Loan 1996
13¼%	Treasury Loan 1997
10½%	Exchequer Stock 1997
8¾%	Treasury Loan 1997
6¾%	Treasury Loan 1995-98
15½%	Treasury Loan 1998
12 %	Exchequer Stock 1998
9½%	Treasury Loan 1999
10½%	Treasury Stock 1999
12 %	Exchequer Stock 1999-2002
3½%	Funding Stock 1999-2004
12½%	Treasury Stock 2003-2005
8 %	Treasury Loan 2002-2006
5½%	Treasury Stock 2008-2012
7¾%	Treasury Loan 2012-2015
2½%	Treasury Stock 1986-2016
12 %	Exchequer Stock 2013-2017
2½%	Annuities 1905 or after
2¾%	Annuities 1905 or after
2½%	Consolidated Stock 1923 or after
4 %	Consolidated Loan 1957 or after
3½%	Conversion Loan 1961 or after
2½%	Treasury Stock 1975 or after
3 %	Treasury Stock 1966 or after
3½%	War Loan 1952 or after

⋮  
F247

⋮  
F247

#### Textual Amendments

**F247** Words repealed by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [s. 187](#) and Sch. 17 Part XIV

#### *Securities issued by certain public corporations and guaranteed by the Treasury*

4¼%	North of Scotland Electricity Stock 1974-79
4¼%	British Electricity Stock 1974-79

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3½%	British Electricity Stock 1976-79
3½%	North of Scotland Electricity Stock 1977-80
3 %	British European Airways Stock 1980-83
3 %	North of Scotland Electricity Stock 1989-92
3 %	British Gas Stock 1990-95.

### SCHEDULE 3

Section 106.

#### LEASES

##### **Modifications etc. (not altering text)**

**C241** Sch. 3 applied (E.W.S.) (16.01.1992) by S.I. 1992/58, art.26.

##### *Leases of land as wasting assets: curved line restriction of allowable expenditure*

- 1 (1) A lease of land shall not be a wasting asset until the time when its duration does not exceed fifty years.
- (2) If at the beginning of the period of ownership of a lease of land it is subject to a sub-lease not at a rackrent and the value of the lease at the end of the duration of the sub-lease, estimated as at the beginning of the period of ownership, exceeds the expenditure allowable under section 32(1)(a) of this Act in computing the gain accruing on a disposal of the lease, the lease shall not be a wasting asset until the end of the duration of the sub-lease.
- (3) In the case of a wasting asset which is a lease of land the rate at which expenditure is assumed to be written off shall, instead of being a uniform rate as provided by section 38 of this Act, be a rate fixed in accordance with the Table below.
- (4) Accordingly, for the purposes of the computation under Chapter II of Part II of this Act of the gain accruing on a disposal of a lease, and given that—
- the percentage derived from the Table for the duration of the lease at the beginning of the period of ownership is P(1),
  - the percentage so derived for the duration of the lease at the time when any item of expenditure attributable to the lease under section 32(1)(b) of this Act is first reflected in the nature of the lease is P(2), and
  - the percentage so derived for the duration of the lease at the time of the disposal is P(3),
- then—
- there shall be excluded from the expenditure attributable to the lease under section 32(1)(a) of this Act a fraction equal to

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$$\frac{P(2) - P(3)}{P(2)}$$

,and

- (ii) there shall be excluded from any item of expenditure attributable to the lease under section 32(1)(b) of this Act a fraction equal to

$$\frac{T}{P + T}$$

- (5) This paragraph applies notwithstanding that the period of ownership of the lease is a period exceeding fifty years and, accordingly, no expenditure shall be written off under this paragraph in respect of any period earlier than the time when the lease becomes a wasting asset.
- (6) Section 39 of this Act (wasting assets qualifying for capital allowances) shall apply in relation to this paragraph as it applies in relation to section 38.

TABLE

Years	Percentage	Years	Percentage
50 (or more)	100	25	81.100
49	99.657	24	79.622
48	99.289	23	78.055
47	98.902	22	76.399
46	98.490	21	74.635
45	98.059	20	72.770
44	97.595	19	70.791
43	97.107	18	68.697
42	96.593	17	66.470
41	96.041	16	64.116
40	95.457	15	61.617
39	94.842	14	58.971
38	94.189	13	56.167
37	93.497	12	53.191
36	92.761	11	50.038
35	91.981	10	46.695

If the duration of the lease is not an exact number of years the percentage to be derived from the Table above shall be the percentage for the whole number of years plus one twelfth of the difference between that and the percentage for the next higher number of years for each odd month counting an odd 14 days or more as one month.

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34	91.156	9	43.154
33	90.280	8	39.399
32	89.354	7	35.414
31	88.371	6	31.195
30	87.330	5	26.722
29	86.226	4	21.983
28	85.053	3	16.959
27	83.816	2	11.629
26	82.496	1	5.983
		0	0

If the duration of the lease is not an exact number of years the percentage to be derived from the Table above shall be the percentage for the whole number of years plus one twelfth of the difference between that and the percentage for the next higher number of years for each odd month counting an odd 14 days or more as one month.

#### *Premiums for leases*

- 2 (1) Subject to this Schedule where the payment of a premium is required under a lease of land, or otherwise under the terms subject to which a lease of land is granted, there is a part disposal of the freehold or other asset out of which the lease is granted.
- (2) In applying section 35 of this Act to such a part disposal, the property which remains undisposed of includes a right to any rent or other payments, other than a premium, payable under the lease, and that right shall be valued as at the time of the part disposal.

#### **Modifications etc. (not altering text)**

**C242** See [Development Land Tax Act 1976 \(c. 24\)](#), s. 34 and Sch. 6 para. 3(2) (which Act was repealed by [Finance Act 1985 \(c. 54, SIF 63:2\)](#), ss. 93, 98(6) and Sch. 27 Pt. X)

**C243** [Sch. 3 para. 2\(2\)](#) applied (with modifications) (E.W.S.) (16.1.1992) by [S.I. 1992/58](#), art.26.

- 3 (1) This paragraph applies in relation to a lease of land.
- (2) Where, under the terms subject to which a lease is granted, a sum becomes payable by the tenant in lieu of the whole or part of the rent for any period, or as consideration for the surrender of the lease, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum for the period in relation to which the sum is payable.
- (3) Where, as consideration for the variation or waiver of any of the terms of a lease, a sum becomes payable by the tenant otherwise than by way of rent, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum for the

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period from the time when the variation or waiver takes effect to the time when it ceases to have effect.

- (4) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, then subject to sub-paragraph (5) below, both the landlord and the tenant shall be treated as if that premium were, or were part of, the consideration for the grant of the lease due at the time when the lease was granted, and the gain accruing to the landlord on the disposal by way of grant of the lease shall be recomputed and any necessary adjustments of tax, whether by way of assessment for the year in which the premium is deemed to have been received, or by way of discharge or repayment of tax, made accordingly.
- (5) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, and the landlord is a tenant under a lease the duration of which does not exceed fifty years this Schedule shall apply as if an amount equal to the amount of that premium deemed to have been received had been given by way of consideration for the grant of the part of the sub-lease covered by the period in respect of which the premium is deemed to have been paid as if that consideration were expenditure incurred by the sub-lessee and attributable to that part of the sub-lease under section 32(1)(b) of this Act.
- (6) Where under sub-paragraph (2) above a premium is deemed to have been received as consideration for the surrender of a lease the surrender of the lease shall not be the occasion of any recomputation of the gain accruing on the receipt of any other premium, and the premium which is consideration for the surrender of the lease shall be regarded as consideration for a separate transaction consisting of the disposal by the landlord of his interest in the lease.
- (7) Sub-paragraph (3) above shall apply in relation to a transaction not at arm's length, and in particular in relation to a transaction entered into gratuitously, as if such sum had become payable by the tenant otherwise than by way of rent as might have been required of him if the transaction had been at arm's length.

#### *Sub-leases out of short leases*

- 4 (1) In the computation under Chapter II or Part II of this Act of the gain accruing on the part disposal of a lease which is a wasting asset by way of the grant of a sub-lease for a premium the expenditure attributable to the lease under paragraphs (a) and (b) of section 32(1) of this Act shall be apportioned in accordance with this paragraph, and section 35 of this Act shall not apply.
- (2) Out of each item of the expenditure attributable to the lease under paragraphs (a) and (b) of section 32(1) of this Act there shall be apportioned to what is disposed of—
  - (a) if the amount of the premium is not less than what would be obtainable by way of premium for the said sub-lease if the rent payable under that sub-lease were the same as the rent payable under the lease, the fraction which, under paragraph 1(3) of this Schedule, is to be written off over the period which is the duration of the sub-lease, and
  - (b) if the amount of the premium is less than the said amount so obtainable, the said fraction multiplied by a fraction equal to the amount of the said premium divided by the said amount so obtainable.



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- (3) If the sub-lease is a sub-lease of part only of the land comprised in the lease this paragraph shall apply only in relation to a proportion of the expenditure attributable to the lease under paragraphs (a) and (b) of section 32(1) of this Act which is the same as the proportion which the value of the land comprised in the sub-lease bears to the value of that and the other land comprised in the lease; and the remainder of that expenditure shall be apportioned to what remains undisposed of.

*Exclusion of premiums taxed under Schedule A etc.*

- 5 (1) Where by reference to any premium income tax has become chargeable under section [F<sup>248</sup>34] of [F<sup>249</sup>the Taxes Act 1988] on any amount, that amount out of the premium shall be excluded from the consideration brought into account in the computation under Chapter II of Part II of this Act of a gain accruing on the disposal for which the premium is consideration except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made under section 35 of this Act (part disposals).
- (2) Where by reference to any premium in respect of a sub-lease granted out of a lease the duration of which (that is of the lease) does not, at the time of granting the lease, exceed fifty years, income tax has become chargeable under section [F<sup>248</sup>34] of [F<sup>249</sup>the Taxes Act 1988] on any amount that amount shall be deducted from any gain accruing on the disposal for which the premium is consideration as computed in accordance with the provisions of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or to increase any loss.
- (3) Where income tax has become chargeable under section [F<sup>248</sup>36] of [F<sup>249</sup>the Taxes Act 1988] (sale of land with right of re-conveyance) on any amount a sum of that amount shall be excluded from the consideration brought into account in the computation under Chapter II of Part II of this Act of a gain accruing on the disposal of the estate or interest in respect of which income tax becomes so chargeable, except where the consideration is taken into account in the denominator of the fraction by reference to which an apportionment is made under section 35 of this Act:  
Provided that if what is disposed of is the remainder of a lease or a sub-lease out of a lease the duration of which does not exceed fifty years the preceding provisions of this sub-paragraph shall not apply but the said amount shall be deducted from any gain accruing on the disposal as computed in accordance with the provisions of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or to increase any loss.
- (4) References in sub-paragraph (1) and (2) above to a premium include references to a premium deemed to have been received under subsection [F<sup>249</sup>(4) or (5)] of section [F<sup>248</sup>34] of [F<sup>249</sup>the Taxes Act 1988] (which correspond to paragraph 3(2) and (3) of this Schedule).
- (5) Section 31 of this Act (exclusion of consideration chargeable to tax on income) shall not be taken as authorising the exclusion of any amount from the consideration for a disposal of assets taken into account in the computation under Chapter II of Part II of this Act by reference to any amount chargeable to tax under [F<sup>249</sup>section 348 or 349] of [F<sup>249</sup>the Taxes Act 1988].

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Textual Amendments

**F248** Figure substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

**F249** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

#### Modifications etc. (not altering text)

**C244** See [Development Land Tax Act 1976 \(c. 24\)](#), s. 34, [Sch. 6 paras. 3\(10\)](#) and 4

**C245** See [Development Land Tax Act 1976 \(c. 24\)](#), s. 34 and Sch. 6 para. 3(10)

- 6
- (1) If under section [<sup>F250</sup>37(4)] of [<sup>F250</sup>the Taxes Act 1988] (allowance where, by the grant of a sub-lease, a lessee has converted a capital amount into a right to income) a person is to be treated as paying additional rent in consequence of having granted a sub-lease, the amount of any loss accruing to him on the disposal by way of the grant of the sub-lease shall be reduced by the total amount of rent which he is thereby treated as paying over the term of the sub-lease (and without regard to whether relief is thereby effectively given over the term of the sub-lease), but not so as to convert the loss into a gain, or to increase any gain.
  - (2) Nothing in section 31 of this Act shall be taken as applying in relation to any amount on which tax is paid under section [<sup>F251</sup>35] of [<sup>F250</sup>the Taxes Act 1988] (charge on assignment of lease granted at undervalue).
  - (3) If any adjustment is made under section [<sup>F250</sup>36(2)(b)] of [<sup>F250</sup>the Taxes Act 1988] on a claim under that paragraph, any necessary adjustment shall be made to give effect to the consequences of the claim on the operation of this paragraph or paragraph 5 above.

#### Textual Amendments

**F250** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

**F251** Figure substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

- 7
- If under section [<sup>F252</sup>34(2) and (3)] of [<sup>F252</sup>the Taxes Act 1988] income tax is chargeable on any amount, as being a premium the payment of which is deemed to be required by the lease, the person so chargeable shall be treated for the purposes of the computation of any gain accruing to him as having incurred at the time the lease was granted expenditure of that amount (in addition to any other expenditure) attributable to the asset under section 32(1)(b) of this Act.

#### Textual Amendments

**F252** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### *Duration of leases*

- 8 (1) In ascertaining for the purposes of this Act the duration of a lease of land the following provisions shall have effect.
- (2) Where the terms of the lease include provision for the determination of the lease by notice given by the landlord, the lease shall not be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice given by the landlord.
- (3) Where any of the terms of the lease (whether relating to forfeiture or to any other matter) or any other circumstances render it unlikely that the lease will continue beyond a date falling before the expiration of the term of the lease, the lease shall not be treated as having been granted for a term longer than one ending on that date.
- (4) Sub-paragraph (3) applies in particular where the lease provides for the rent to go up after a given date, or for the tenant's obligations to become in any other respect more onerous after a given date, but includes provision for the determination of the lease on that date by notice given by the tenant, and those provisions render it unlikely that the lease will continue beyond that date.
- (5) Where the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant this paragraph shall apply as if the term of the lease extended for as long as it could be extended by the tenant, but subject to any right of the landlord by notice to determine the lease.
- (6) It is hereby declared that the question what is the duration of a lease is to be decided, in relation to the grant or any disposal of the lease, by reference to the facts which were known or ascertainable at the time when the lease was acquired or created.

### *Leases of property other than land*

- 9 (1) Paragraphs 2, 3, 4 and 8 of this Schedule shall apply in relation to leases of property other than land as they apply to leases of land, but subject to any necessary modifications.
- (2) Where by reference to any capital sum within the meaning of section [F<sup>253</sup>785] of [F<sup>254</sup>the Taxes Act 1988] (leases of assets other than land) any person has been charged to income tax on any amount, that amount out of the capital sum shall be deducted from any gain accruing on the disposal for which that capital sum is consideration, as computed in accordance with the provisions of this Act apart from this sub-paragraph, but not so as to convert the gain into a loss, or increase any loss.
- (3) In the case of a lease of a wasting asset which is movable property the lease shall be assumed to terminate not later than the end of the life of the wasting asset.

#### **Textual Amendments**

**F253** Figure substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

**F254** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 paras. 15](#) and 32

*Status: Point in time view as at 25/07/1991.*

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### *Interpretation*

- 10 (1) In this Act, unless the context otherwise requires “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 use of, or otherwise in respect of, property,
- and “lessor”, “lessee” and “rent” shall be construed accordingly.
- (2) In this Schedule “premium” includes any like sum, whether payable to the intermediate or a superior landlord, and for the purposes of this Schedule any sum (other than rent) paid on or in connection with the granting of a tenancy shall be presumed to have been paid by way of premium except in so far as other sufficient consideration for the payment is shown to have been given.
- (3) In the application of this Schedule to Scotland “premium” includes in particular a grassum payable to any landlord or intermediate landlord on the creation of a sublease.

## SCHEDULE 4

Section 126.

### RELIEF FOR GIFTS OF BUSINESS ASSETS

#### PART I

#### AGRICULTURAL PROPERTY AND SETTLED PROPERTY

##### *Agricultural property*

- 1 (1) This paragraph applies where—
- (a) there is a disposal of an asset which is, or is an interest in, agricultural property within the meaning of [<sup>F255</sup>Chapter II of Part V of the Capital Transfer Tax Act 1984] (capital transfer tax relief for agricultural property), and
  - (b) apart from this paragraph, the disposal would not fall within [<sup>F256</sup>section 126(1)] of this Act by reason only that the agricultural property is not used for the purposes of a trade carried on as mentioned in [<sup>F256</sup>section 126(1A)(a)].
- (2) Where this paragraph applies, section 126(1) of this Act shall apply in relation to the disposal if the circumstances are such that a reduction [<sup>F257</sup>at the rate of 50 per cent.] in respect of the asset—

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (a) is made under [<sup>F255</sup>Chapter II of Part V of the Capital Transfer Tax Act 1984] in relation to a chargeable transfer taking place on the occasion of the disposal, or
- (b) would be so made if there were a chargeable transfer on that . . . <sup>F258</sup>[<sup>F259</sup>, or]
- [<sup>F260</sup>(c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were)].

#### Textual Amendments

- F255** Words substituted by [Inheritance Tax Act 1984 \(c. 51\), s. 276](#) and Sch. 8 para. 12
- F256** Words substituted by [Finance Act 1989 \(c. 26, SIF 63:2\), s. 124](#) and Sch. 14 para. 3(2) in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\), s. 79](#) in respect of a disposal before that date)
- F257** Words substituted by [Inheritance Tax Act 1984 \(c. 51\), s. 276](#) and Sch. 8 para. 12 and repealed by [Finance Act 1989 \(c. 26, SIF 63:2\), ss. 124, 187, Schs. 14](#) and 17 Part VII in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\), s. 79](#) in respect of a disposal before that date)
- F258** Words repealed by [Finance Act 1981 \(c. 35, SIF 63:2\), s. 139](#) and Sch. 19 Pt. VIII
- F259** “, or” inserted by [Finance Act 1989 \(c. 26, SIF 63:2\), s. 124](#) and Sch. 14 para. 3(2) in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\), s. 79](#) in respect of a disposal before that date)
- F260** [Sch. 4 para. 1\(2\)\(c\)](#) inserted by [Finance Act 1989 \(c. 26, SIF 63:2\), s. 124](#) and Sch. 14 para. 3(2) in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\), s. 79](#) in respect of a disposal before that date)

#### Modifications etc. (not altering text)

- C246** See [Finance Act 1986 \(c. 41\), s. 100](#) for occasions when [Capital Transfer Tax Act 1984 \(c. 51, SIF 65\)](#) referred to as [Inheritance Tax Act 1984 \(c. 51\)](#)

### *Settled property*

[<sup>F261</sup>2 (1) If—

- (a) the trustees of a settlement make a disposal otherwise than under a bargain at arm’s length of an asset within sub-paragraph (2) below, and
- (b) a claim for relief under section 126 of this Act is made by the trustees and the person who acquires the asset (in this Schedule referred to as “the transferee”) or, where the trustees of a settlement are also the transferee, by the trustees making the disposal alone,

then, subject to subsection (2) of section 126 and to sections 126A and 126B, subsection (3) of section 126 shall apply in relation to the disposal.

(2) An asset is within this sub-paragraph if—

- (a) it is, or is an interest in, an asset used for the purposes of a trade, profession or vocation carried on by—
- (i) the trustees making the disposal, or
  - (ii) a beneficiary who had an interest in possession in the settled property immediately before the disposal, or
- (b) it consists of shares or securities of a trading company, or of the holding company of a trading group, where—

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (i) the shares or securities are neither quoted on a recognised stock exchange nor dealt in on the Unlisted Securities Market, or
  - (ii) not less than 25 per cent. of the voting rights exercisable by shareholders of the company in general meeting are exercisable by the trustees at the time of the disposal.
- (3) Where section 126(3) applies by virtue of this paragraph, references to the trustees shall be substituted for the references in sections 126(3)(a) and 126C to the transferor; and where it applies in relation to a disposal which is deemed to occur by virtue of section 54(1) or 55(1) of this Act, section 126(6) shall not apply.]

#### Textual Amendments

**F261** Sch. 4 para. 2 substituted by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 3(3) in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)

- 3 (1) This paragraph applies where—
- (a) there is, [<sup>F262</sup>by virtue of section 54(1) [<sup>F263</sup>or 55(1)] of this Act (settled property)], a disposal of an asset which is, or is an interest in, agricultural property within the meaning of [<sup>F264</sup>Chapter II of Part V of the Capital Transfer Tax Act 1984], and
  - (b) apart from this paragraph, the disposal would not fall within paragraph [<sup>F265</sup>2(1)(a)] above by reason only that the agricultural property is not used for the purposes of a trade as mentioned in [<sup>F265</sup>paragraph 2(2)(a) above].
- (2) Where this paragraph applies, paragraph 2(1) above shall apply in relation to the disposal if the circumstances are such that a reduction [<sup>F266</sup>at the rate of 50 per cent.] in respect of the asset—
- (a) is made under [<sup>F264</sup>Chapter II of Part V of the Capital Transfer Tax Act 1984] in relation to a chargeable transfer taking place on the occasion of the disposal, or
  - (b) would be so made if there were a chargeable transfer on that occasion . . . [<sup>F267</sup><sup>F268</sup>, or]
  - [<sup>F269</sup>(c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were)].

#### Textual Amendments

**F262** Words repealed by Finance Act 1989 (c. 26, SIF 63:2), ss. 124, 187, Schs. 14 para. 3(4) and 17 Part VII in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)

**F263** Words repealed by Finance Act 1982 (c. 39, SIF 63:2), s. 157 and Sch. 22 Part VI in relation to disposals after 5 April 1982

**F264** Words substituted by Inheritance Tax Act 1984 (c. 51), s. 276 and Sch. 8 para. 12

**F265** Words substituted by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 paras. (4)(a), (4)(b) in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)

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- F266** Words inserted by [Inheritance Tax Act 1984 \(c. 51\), s. 276](#) and Sch. 8 para. 12 and repealed by [Finance Act 1989 \(c. 26, SIF 63:2\), ss. 124, 187, Schs. 14 para. 3\(4\)](#) and 17 Part VII in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\), s. 79](#) in respect of a disposal before that date)
- F267** Words repealed by [Finance Act 1981 \(c. 35, SIF 63:2\), s. 139](#) and Sch. 19 Pt. VIII
- F268** “, or” inserted by [Finance Act 1989 \(c. 26, SIF 63:2\), s. 124](#) and Sch. 14 paras. (4)(a), (4)(b) in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\), s. 79](#) in respect of a disposal before that date)
- F269** Sch. 4 para. 3(2)(c) inserted by [Finance Act 1989 \(c. 26, SIF 63:2\), s. 124](#) and Sch. 14 paras. (4)(a), (4)(b) in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\), s. 79](#) in respect of a disposal before that date)

## PART II

### REDUCTIONS IN HELD-OVER GAIN

#### *Application and interpretation*

- 4 (1) The provisions of this Part of this Schedule apply in cases where a claim for relief is made under section 126 of this Act.
- (2) In this Part of this Schedule—
- (a) “the principal provision” means [<sup>F270</sup>section 126(1A)] of this Act, or, as the case may require, [<sup>F270</sup>sub-paragraph (2)] of paragraph 2 above,
  - (b) “shares” includes securities,
  - [<sup>F271</sup>(c) “the transferor” has the same meaning as in section 126 of this Act except that, in a case where paragraph 2 above applies, it refers to the trustees mentioned in that paragraph.]
  - (d) “unrelieved gain”, in relation to a disposal, has the same meaning as in section 126(6) of this Act.
- [<sup>F272</sup>(3) In this Part of this Schedule—
- (a) any reference to a disposal of an asset is a reference to a disposal which falls within subsection (1) of section 126 of this Act by virtue of subsection (1A) (a) of that section or, as the case may be, falls within sub-paragraph (1) of paragraph 2 above by virtue of sub-paragraph (2)(a) of that paragraph, and
  - (b) any reference to a disposal of shares is a reference to a disposal which falls within subsection (1) of section 126 of this Act by virtue of subsection (1A) (b) of that section or, as the case may be, falls within sub-paragraph (1) of paragraph 2 above by virtue of sub-paragraph (2)(b) of that paragraph.]
- (4) In relation to a disposal of an asset or of shares, any reference in the following provisions of this Part of this Schedule to the held-over gain is a reference to the held-over gain on that disposal as determined under subsection (5) or, [<sup>F273</sup>where it applies], subsection (6) of section 126 of this Act [<sup>F274</sup>(taking account, where paragraph 2 above applies, of sub-paragraph (2)(b) of that paragraph)].



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#### Textual Amendments

- F270** Words substituted by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [s. 124](#) and Sch. 14 para. 3(5)(a)(b) in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\)](#), [s. 79](#) in respect of a disposal before that date)
- F271** [Sch. 4 para. 4\(2\)\(c\)](#) substituted by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [s. 124](#) and Sch. 14 para. 3(5)(a)(b) in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\)](#), [s. 79](#) in respect of a disposal before that date)
- F272** [Sch. 4 para. 4\(3\)](#) substituted by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [s. 124](#) and Sch. 14 para. 3(5)(c)(d)(6) in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\)](#), [s. 79](#) in respect of a disposal before that date)
- F273** Words substituted by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [s. 124](#) and Sch. 14 para. 3(5)(c)(d)(6) in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\)](#), [s. 79](#) in respect of a disposal before that date)
- F274** Words repealed by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [ss. 124, 187](#), [Schs. 14 para. 3\(5\)\(d\)](#) and 17 Part VII in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\)](#), [s. 79](#) in respect of a disposal before that date)

#### *Reductions peculiar to disposals of assets*

- 5 (1) If, in the case of a disposal of an asset, the asset was not used for the purposes of the trade, profession or vocation referred to in paragraph (a) of the principal provision throughout the period of its ownership by the transferor, the amount of the held-over gain shall be reduced by multiplying it by the fraction of which the denominator is the number of days in that period of ownership and the numerator is the number of days in that period during which the asset was so used.
- [<sup>F275</sup>(2) This paragraph shall not apply where the circumstances are such that a reduction in respect of the asset—
- (a) is made under Chapter II of Part V of the Capital Transfer Tax Act 1984 in relation to a chargeable transfer taking place on the occasion of the disposal, or
  - (b) would be so made if there were a chargeable transfer on that occasion, or
  - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).]

#### Textual Amendments

- F275** [Sch. 4 para. 5\(2\)](#) added by [Finance Act 1989 \(c. 26, SIF 63:2\)](#), [s. 124](#) and Sch. 14 para. 3(5)(c)(d)(6) in relation to disposals on or after 14 March 1989 (except where relief given under [Finance Act 1980 \(c. 48, SIF 63:1\)](#), [s. 79](#) in respect of a disposal before that date)

- 6 (1) If, in the case of a disposal of an asset, the asset is a building or structure and, over the period of its ownership by the transferor or any substantial part of that period, part of the building or structure was, and part was not, used for the purposes of the trade, profession or vocation referred to in paragraph (a) of the principal provision, there shall be determined the fraction of the unrelieved gain on the disposal which it is just and reasonable to apportion to the part of the asset which was so used, and the

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amount of the held-over gain (as reduced, if appropriate, under paragraph 5 above) shall be reduced by multiplying it by that fraction.

- [<sup>F276</sup>(2) This paragraph shall not apply where the circumstances are such that a reduction in respect of the asset—
- (a) is made under Chapter II of Part V of the Capital Transfer Tax Act 1984 in relation to a chargeable transfer taking place on the occasion of the disposal, or
  - (b) would be so made if there were a chargeable transfer on that occasion, or
  - (c) would be so made but for section 124A of that Act (assuming, where there is no chargeable transfer on that occasion, that there were).]

#### Textual Amendments

**F276** Sch. 4 para. 6(2) added by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 3(6) in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)

#### *Reduction peculiar to disposal of shares*

- [<sup>F277</sup>(1) If in the case of a disposal of shares assets which are not business assets are included in the chargeable assets of the company whose shares are disposed of, or, where that company is the holding company of a trading group, in the group's chargeable assets, and either—
- (a) at any time within the period of twelve months before the disposal not less than 25 per cent. of the voting rights exercisable by shareholders of the company in general meeting are exercisable by the transferor, or
  - (b) the transferor is an individual and, at any time within that period, the company is his family company,
- the amount of the held-over gain shall be reduced by multiplying it by the fraction defined in sub-paragraph (2) below.
- (2) The fraction referred to in sub-paragraph (1) above is that of which—
- (a) the denominator is the market value on the date of the disposal of all the chargeable assets of the company, or as the case may be of the group, and
  - (b) the numerator is the market value on that date of those chargeable assets of the company or of the group which are business assets.
- (3) For the purposes of this paragraph—
- (a) an asset is a business asset in relation to a company or a group if it is or is an interest in an asset used for the purposes of a trade, profession or vocation carried on by the company, or as the case may be by a member of the group; and
  - (b) an asset is a chargeable asset in relation to a company or a group at any time if, on a disposal at that time, a gain accruing to the company, or as the case may be to a member of the group, would be a chargeable gain.
- (4) Where the shares disposed of are shares of the holding company of a trading group, then for the purposes of this paragraph—

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (a) the holding by one member of the group of the ordinary share capital of another member shall not count as a chargeable asset, and
  - (b) if the whole of the ordinary share capital of a 51 per cent. subsidiary of the holding company is not owned directly or indirectly by that company, the value of the chargeable assets of the subsidiary shall be taken to be reduced by multiplying it by the fraction of which the denominator is the whole of the ordinary share capital of the subsidiary and the numerator is the amount of that share capital owned directly or indirectly by the holding company.
- (5) Expressions used in sub-paragraph (4) above have the same meanings as in section 838 of the Taxes Act 1988.]

#### Textual Amendments

**F277** Sch. 4 para. 7 substituted by Finance Act 1989 (c. 26, SIF 63:2), s. 124 and Sch. 14 para. 3(7) in relation to disposals on or after 14 March 1989 (except where relief given under Finance Act 1980 (c. 48, SIF 63:1), s. 79 in respect of a disposal before that date)

#### *Reduction where gain partly relieved by retirement relief*

- 8 (1) If, in the case of a disposal of an asset—
- (a) the disposal is of a chargeable business asset and is comprised in a disposal of the whole or part of a business in respect of gains accruing on which the transferor is entitled to relief under [<sup>F278</sup>Schedule 20 to the Finance Act 1985] (transfer of business on retirement), and
  - (b) apart from this paragraph, the held-over gain on the disposal (as reduced, where appropriate, under the preceding provisions of this Part of this Schedule) would exceed the amount of the chargeable gain which, apart from section 126 of this Act, would accrue on the disposal,
- the amount of that held-over gain shall be reduced by the amount of the excess.
- (2) In sub-paragraph (1) above “chargeable business asset” has the same meaning as in [<sup>F278</sup>Schedule 20 to the Finance Act 1985].
- (3) If, in the case of a disposal of shares,—
- (a) the disposal is or forms part of a disposal of shares in respect of the gains accruing on which the transferor is entitled to relief under [<sup>F278</sup>Schedule 20 to the Finance Act 1985], and
  - (b) apart from this paragraph, the held-over gain on the disposal (as reduced, where appropriate, under paragraph 7 above) would exceed an amount equal to the relevant proportion of the chargeable gain which, apart from section 126 of this Act, would accrue on the disposal,
- the amount of that held-over gain shall be reduced by the amount of the excess.
- (4) In sub-paragraph (3) above “the relevant proportion”, in relation to a disposal falling within paragraph (a) of that sub-paragraph, means [<sup>F278</sup>the appropriate proportion determined under Schedule 20 to the Finance Act 1985] in relation to the aggregate sum of the gains which accrue on that disposal.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### Textual Amendments

**F278** Words substituted by Finance Act 1985 (c. 54), s. 70(9) with respect to disposals on which relief falls to be given under Finance Act 1985 (c. 54), Sch. 20 from 6 April 1985

## SCHEDULE 5

Section 28(3).

### ASSETS HELD ON 6TH APRIL 1965

### Modifications etc. (not altering text)

**C247** See— Capital Gains Tax Act 1979 (c. 14), s. 123A; Finance (No. 2) Act 1983 (c. 49), s. 7(5); Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), Sch. 29; Finance Act 1988 (c. 39, SIF 63:1, 2), s. 96(3); Trustee Savings Banks Act 1985 (c. 58, SIF 110), s. 5 and Sch. 2 para. 2(2)

**C248** Sch. 5 modified by Finance Act 1990 (c. 29, SIF 63:1), s. 80, Sch. 12 para. 2(1)

## PART I

### QUOTED SECURITIES

#### *Deemed acquisition at 6th April 1965 value*

- 1 (1) This paragraph applies—
- (a) to shares and securities which on 6th April 1965 have quoted market values on a recognised stock exchange in the United Kingdom or elsewhere, or which have had such quoted market values at any time in the period of six years ending on 6th April 1965, and
  - (b) to rights of unit holders in any unit trust scheme the prices of which are published regularly by the managers of the scheme.
- (2) For the purposes of this Act it shall be assumed, wherever relevant, that any assets to which this paragraph applies were sold by the owner, and immediately re-acquired by him, at their market value on 6th April 1965.
- (3) This paragraph shall not apply in relation to a disposal of shares or securities of a company by a person to whom those shares or securities were issued as an employee either of the company or of some other person on terms which restrict his rights to dispose of them.

#### *Restriction of gain or loss by reference to actual cost*

- 2 (1) Subject to the rights of election conferred by paragraphs 4 to 7 below, paragraph 1(2) above shall not apply in relation to a disposal of assets—
- (a) if on the assumption in paragraph 1(2) a gain would accrue on that disposal to the person making the disposal and either a smaller gain or a loss would

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so accrue (computed in accordance with Chapter II of Part II) if paragraph 1(2) did not apply, or

- (b) if on the assumption in paragraph 1(2) a loss would so accrue and either a smaller loss or a gain would accrue if paragraph 1(2) did not apply,

and accordingly the amount of the gain or loss accruing on the disposal shall be computed without regard to the preceding provisions of this Schedule except that in a case where this sub-paragraph would otherwise substitute a loss for a gain or a gain for a loss it shall be assumed, in relation to the disposal, that the relevant assets were sold by the owner, and immediately re-acquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.

- (2) For the purpose of—

- (a) identifying shares or securities held on 6th April 1965 with shares or securities previously acquired, and  
(b) identifying the shares or securities held on that date with shares or securities subsequently disposed of, and distinguishing them from shares or securities acquired subsequently,

so far as that identification is needed for the purposes of sub-paragraph (1) above, and so far as the shares or securities are of the same class, shares or securities acquired at [<sup>F279</sup>a later time] shall be deemed to be disposed of before shares or securities acquired at [<sup>F279</sup>an earlier time].

- (3) Sub-paragraph (2) above has effect subject to section 66 of this Act (disposal on or before day of acquisition).

#### Textual Amendments

**F279** Words substituted by [Finance Act 1982 \(c. 39, SIF 63:2\)](#), [s. 88\(8\)](#) and Sch. 13 para. 11 with respect to securities acquired before 6 April 1982 or in the case of a company, 1 April 1982

#### Modifications etc. (not altering text)

**C249** See also [Finance Act 1985 \(c. 54\)](#), [s. 68\(3\)\(a\)](#) and Sch. 19 para. 6(3)

### *Exclusion of pooling*

- 3 (1) Subject to the rights of election conferred by paragraphs 4 to 7 below, section 65 of this Act (pooling of shares and other assets) shall not apply to quoted securities held on 6th April 1965.

- (2) Where—

- (a) a disposal was made out of quoted securities before 20th March 1968 (that is to say before the date on which the provisions re-enacted in sub-paragraph (1) above took effect), and  
(b) by virtue of paragraph 2 of Schedule 7 to the <sup>M36</sup>Finance Act 1965 (re-enacted as section 65 of this Act) some of the quoted securities out of which the disposal was made were acquired before 6th April 1965, and some later

then in computing the gain accruing on any disposal of quoted securities the question of what remained undisposed of on the earlier disposal shall be decided on the footing that sub-paragraph (1) above had effect as respects that earlier disposal.

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*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (3) The rules of identification in paragraph 2(2) above shall apply for the purposes of this paragraph as they apply for the purposes of the said paragraph 2.

**Marginal Citations**

M36 1965 c. 25.

*Election for pooling*

- 4 (1) If a person so elects, quoted securities covered by the election shall be excluded from paragraphs 2 and 3 above (so that neither paragraph 1(2) above nor section 65 of this Act is excluded by those paragraphs as respects those securities).
- (2) An election made by any person under this paragraph shall be as respects all disposals made by him at any time, including disposals made before the election but after 19th March 1968—
- (a) of quoted securities of kinds other than fixed-interest securities and preference shares, or
  - (b) of fixed-interest securities and preference shares,
- and references to the quoted securities covered by an election shall be construed accordingly.
- Any person may make both of the elections.
- (3) An election under this paragraph shall not cover quoted securities which the holder acquired on a disposal after 19th March 1968 in relation to which either of the following enactments (which secure that neither a gain nor a loss accrues on the disposal) applies, that is—
- (a) section 44 of this Act (disposals between husband and wife),
  - (b) section 273(1) of [<sup>F280</sup>the Taxes Act 1970] (disposals within a group of companies),
- but this paragraph shall apply to the quoted securities so held if the person making the original disposal (that is to say the wife or husband of the holder, or the other member of the group of companies) makes an election covering quoted securities of the kind in question.
- For the purpose of identifying quoted securities disposed of by the holder with quoted securities acquired by him on a disposal in relation to which either of the said enactments applies, so far as they are of the same class, quoted securities acquired at an earlier time shall be deemed to be disposed of before quoted securities acquired at a later time.
- (4) For the avoidance of doubt it is hereby declared—
- (a) that where a person makes an election under this paragraph as respects quoted securities which he holds in one capacity, that election does not cover quoted securities which he holds in another capacity, and
  - (b) that an election under this paragraph is irrevocable.
- (5) An election under this paragraph shall be made by notice in writing to the inspector not later than the expiration of two years from the end of the year of assessment or

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accounting period of a company in which the first relevant disposal is made, or such further time as the Board may allow.

- (6) Subject to paragraph 5 below, in this paragraph the “first relevant disposal”, in relation to each of the elections referred to in sub-paragraph (2) of this paragraph, means the first disposal after 19th March 1968 by the person making the election of quoted securities of the kind covered by that election.
- (7) All such adjustments shall be made, whether by way of discharge or repayment of tax, or the making of assessments or otherwise, as are required to give effect to an election under this paragraph.

#### **Textual Amendments**

**F280** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 15**

#### **Modifications etc. (not altering text)**

**C250** See [Finance Act 1985 \(c. 54\)](#), **s. 68(3)(a)** and Sch. 19 para. 6(4)

#### *Election by principal company of group*

- 5 (1) In the case of companies which at the relevant time are members of a group of companies—
- (a) an election under paragraph 4 above by the company which at that time is the principal company of the group shall have effect also as an election by any other company which at that time is a member of the group, and
  - (b) no election under that paragraph may be made by any other company which at that time is a member of the group.
- (2) In this paragraph “the relevant time”, in relation to a group of companies, and in relation to each of the elections referred to in paragraph 4(2) above, is the first occasion after 19th March 1968 when any company which is then a member of a group disposes of quoted securities of a kind covered by that election, and for the purposes of paragraph 4(5) above that occasion is, in relation to the group, “the first relevant disposal”.
- (3) This paragraph shall not apply in relation to quoted securities of either kind referred to in paragraph 4(2) above which are owned by a company which, in some period after 19th March 1968 and before the relevant time, was not a member of the group if in that period it had made an election under paragraph 4 above in relation to securities of that kind (or was treated by virtue of this paragraph, in relation to another group, as having done so), or had made a disposal of quoted securities of that kind and did not make an election within the time limited by paragraph 4(5) above.
- (4) This paragraph shall apply notwithstanding that a company ceases to be a member of the group at any time after the relevant time.
- (5) In this paragraph “company” and “group” shall be construed in accordance with subsections (1) and (2) of section 272 of [<sup>F281</sup>the Taxes Act 1970].



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Textual Amendments

**F281** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29 para. 15**

#### Modifications etc. (not altering text)

**C251** See [Finance Act 1985 \(c. 54\)](#), **s. 68(3)(a)** and Sch. 19 para. 6(4)

#### *Pooling at value on 6th April 1965: exchange of securities etc.*

- 6
- (1) Where a person who has made only one of the elections under paragraph 4 above disposes of quoted securities which, in accordance with Chapter II of Part IV of this Act, are to be regarded as being or forming part of a new holding, the election shall apply according to the nature of the quoted securities disposed of, notwithstanding that under the said Chapter the new holding is to be regarded as the same asset as the original holding and that the election would apply differently to the original holding.
  - (2) Where the election does not cover the disposal out of the new holding, but does cover quoted securities of the kind comprised in the original holding, then in computing the gain accruing on the disposal out of the new holding (in accordance with paragraph 3 above) the question of what remained undisposed of on any disposal out of the original holding shall be decided on the footing that paragraph 3 above applied to that earlier disposal.
  - (3) In the case converse to that in sub-paragraph (2) above (that is to say where the election covers the disposal out of the new holding, but does not cover quoted securities of the kind comprised in the original holding) the question of how much of the new holding derives from quoted securities held on 6th April 1965, and how much derives from other quoted securities, shall be decided as it is decided for the purposes of paragraph 3 above.

#### Modifications etc. (not altering text)

**C252** See [Finance Act 1985 \(c. 54\)](#), **s. 68(3)(a)** and Sch. 19 para. 6(4)

#### *Underwriters*

- 7
- No election under paragraph 4 above shall cover quoted securities comprised in any underwriter's premiums trust fund, or premiums trust fund deposits, or personal reserves, being securities comprised in funds to which section 142 of this Act applies.

#### Modifications etc. (not altering text)

**C253** See [Finance Act 1985 \(c. 54\)](#), **s. 68(3)(a)** and Sch. 19 para. 6(4)

*Status: Point in time view as at 25/07/1991.*

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### *Interpretation of paragraphs 3 to 7*

- 8 (1) In paragraphs 3 to 7 above—
- “quoted securities” means assets to which paragraph 1 above applies,
  - “fixed interest security” means any security as defined by section 82 of this Act,
  - “preference share” means any share the holder whereof has a right to a dividend at a fixed rate, but has no other right to share in the profits of the company.
- (2) If and so far as the question whether at any particular time a share was a preference share depends on the rate of dividends payable on or before 5th April 1973, the reference in the definition of “preference share” in sub-paragraph (1) above to a dividend at a fixed rate includes a dividend at a rate fluctuating in accordance with the standard rate of income tax.

**Modifications etc. (not altering text)**

**C254** See Finance Act 1985 (c. 54), s. 68(3)(a) and Sch. 19 para. 6(4)

## **PART II**

### LAND REFLECTING DEVELOPMENT VALUE

#### *Valuation at 6th April 1965*

- 9 (1) This paragraph shall apply in relation to a disposal of an asset which is an interest in land situated in the United Kingdom—
- (a) if, but for this paragraph, the expenditure allowable as a deduction in computing under Chapter II of Part II of this Act the gain accruing on the disposal would include any expenditure incurred before 6th April 1965, and
  - (b) if the consideration for the asset acquired on the disposal exceeds the current use value of the asset at the time of the disposal, or if any material development of the land has been carried out after 17th December 1973 since the person making the disposal acquired the asset.
- (2) For the purposes of this Act, including Chapter II of Part II, it shall be assumed in relation to the disposal and, if it is a part disposal, in relation to any subsequent disposal of the asset which is an interest in land situated in the United Kingdom that that asset was sold by the person making the disposal, and immediately reacquired by him, at its market value on 6th April 1965.
- (3) Sub-paragraph (2) above shall apply also in relation to any prior part disposal of the asset and, if tax has been charged, or relief allowed, by reference to that part disposal on a different footing, all such adjustments shall be made, whether by way of assessment or discharge or repayment of tax, as are required to give effect to the provisions of this sub-paragraph.
- (4) Sub-paragraph (2) above shall not apply in relation to a disposal of assets—

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (a) if on the assumption in that sub-paragraph a gain would accrue on that disposal to the person making the disposal and either a smaller gain or a loss would so accrue (computed in accordance with the provisions of Chapter II of Part II of this Act) if the said sub-paragraph (2) did not apply, or
- (b) if on the assumption in the said sub-paragraph (2) a loss would so accrue and either a smaller loss or a gain would accrue if the said sub-paragraph (2) did not apply,

and accordingly the amount of the gain or loss accruing on the disposal shall be computed without regard to the provisions of this Schedule except that in a case where this sub-paragraph would otherwise substitute a loss for a gain or a gain for a loss it shall be assumed, in relation to the disposal, that the relevant assets were sold by the owner, and immediately re-acquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.

(5) For the purposes of this paragraph—

- (a) “interest in land” has the meaning given by section 44(1) of the <sup>M37</sup>Finance Act 1974,
- (b) “material development” has the meaning given by paragraph 6 of Schedule 3 to the <sup>M38</sup>Finance Act 1974,
- (c) the current use value of an interest in land shall be computed in accordance with Part I of the said Schedule 3, but so that, in relation to any material development which was begun before 18th December 1973, sub-paragraph (2) of paragraph 1 of that Schedule (definition of current use value) shall have effect as if the words from “other than” to the end of the sub-paragraph (which allow for the completion of duly authorised material development already begun) were omitted,
- (d) paragraph 9 of the said Schedule 3 (date when material development is begun) shall apply as it applies for the purposes of that Schedule, and
- (e) paragraph 14 of the said Schedule 3 (meaning of material development “carried out after” a particular date) shall apply as it applies for the purposes of paragraphs 11 to 13 of that Schedule.

#### Marginal Citations

**M37** 1974 c. 30.

**M38** 1974 c. 30.

#### *Allowance for betterment levy*

- 10 Paragraph 9(1) above has effect subject to paragraph 21(2) of Schedule 6 to this Act (valuation at 6th April 1965 on a claim under that paragraph).

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### PART III

#### OTHER ASSETS

*Apportionment by reference to straightline growth of gain or loss over period of ownership*

- 11 (1) This paragraph applies subject to Parts I and II of this Schedule.
- (2) On the disposal of assets by a person whose period of ownership began before 6th April 1965 only so much of any gain accruing on the disposal as is under this paragraph to be apportioned to the period beginning with 6th April 1965 shall be a chargeable gain.
- (3) Subject to the following provisions of this Schedule, the gain shall be assumed to have grown at a uniform rate from nothing at the beginning of the period of ownership to its full amount at the time of the disposal so that, calling the part of that period before 6th April 1965, P, and the time beginning with 6th April 1965 and ending with the time of the disposal T, the fraction of the gain which is a chargeable gain is

$$E(0) \frac{T}{P+T} + E(1) \frac{T}{P(1)+T} + E(2) \frac{T}{P(2)+T}$$

- (4) If any of the expenditure which is allowable as a deduction in the computation under Chapter II of Part II of this Act of the gain is within section 32(1)(b) of this Act—
- (a) the gain shall be attributed to the expenditure, if any, allowable under paragraph (a) of the said section 32(1) as one item of expenditure, and to the respective items of expenditure under the said section 32(1)(b) in proportion to the respective amounts of those items of expenditure,
  - (b) sub-paragraph (3) of this paragraph shall apply to the part of the gain attributed to the expenditure under the said section 32(1)(a),
  - (c) each part of the gain attributed to the items of expenditure under the said section 32(1)(b) shall be assumed to have grown at a uniform rate from nothing at the time when the relevant item of expenditure was first reflected in the value of the asset to the full amount of that part of the gain at the time of the disposal,

so that, calling the respective proportions of the gain E(0), E(1), E(2) and so on (so that they add up to unity) and calling the respective periods from the times when the items under the said section 32(1)(b) were reflected in the value of the asset to 5th April 1965 P(1), P(2) and so on, and employing also the abbreviations in sub-paragraph (3) above, the fraction of the gain which is a chargeable gain is

$$E\left(0\right) \frac{T}{P+T} + E\left(1\right) \frac{T}{P(1)+T} + E\left(2\right) \frac{T}{P(2)+T}$$

and so on.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (5) In a case within sub-paragraph (4) above where there is no initial expenditure (that is no expenditure under section 32(1)(a) of this Act) or that initial expenditure is, compared with any item of expenditure under section 32(1)(b), disproportionately small having regard to the value of the asset immediately before the subsequent item of expenditure was incurred, the part of the gain which is not attributable to the enhancement of the value of the asset due to any item of expenditure under the said section 32(1)(b) shall be deemed to be attributed to expenditure incurred at the beginning of the period of ownership and allowable under section 32(1)(a), and the part or parts of the gain attributable to expenditure under section 32(1)(b) shall be reduced accordingly.
- (6) The beginning of the period over which a gain, or a part of a gain, is, under sub-paragraphs (3) and (4) above, to be treated as growing shall not be earlier than 6th April 1945, and this sub-paragraph shall have effect notwithstanding any provision in this Schedule or elsewhere in this Act.
- (7) If in pursuance of section 35 of this Act (part disposals) an asset's market value at a date before 6th April 1965 is to be ascertained sub-paragraphs (3) to (5) above shall have effect as if that asset had been on that date sold by the owner, and immediately re-acquired by him, at that market value.
- (8) If in pursuance of section 35 of this Act an asset's market value at a date on or after 6th April 1965 is to be ascertained sub-paragraphs (3) to (5) above shall have effect as if—
- (a) the asset on that date had been sold by the owner, and immediately re-acquired by him, at that market value, and
  - (b) accordingly, the computation of any gain on a subsequent disposal of that asset shall be computed—
    - (i) by apportioning in accordance with this paragraph the gain or loss over a period ending on the said date (the date of the part disposal), and
    - (ii) by bringing into account the entire gain or loss over the period from the date of the part disposal to the date of subsequent disposal.
- (9) For the purposes of this paragraph the period of ownership of an asset shall, where under section 36 of this Act (assets derived from other assets) account is to be taken of expenditure in respect of an asset from which the asset disposed of was derived, or where it would so apply if there were any relevant expenditure in respect of that other asset, include the period of ownership of that other asset.
- (10) If under this paragraph part only of a gain is a chargeable gain, the fraction in 102(2) of this Act (private residences: amount of relief) shall be applied to that part, instead of to the whole of the gain.

**Modifications etc. (not altering text)**

**C255** See Finance Act 1988 (c. 39, SIF 63;1, 2), s. 96 and Sch. 8 para. 10

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

*Election for valuation at 6th April 1965*

- 12 (1) If the person making a disposal so elects paragraph 11 of this Schedule shall not apply in relation to that disposal and it shall be assumed, both for the purposes of computing under Chapter II of Part II of this Act the gain accruing to that person on the disposal, and for all other purposes both in relation to that person and other persons, that the assets disposed of, and any assets of which account is to be taken in relation to the disposal under section 36 of this Act, being assets which were in the ownership of the said person on 6th April 1965, were on that date sold, and immediately re-acquired, by him at their market value on the said 6th April 1965.
- (2) Sub-paragraph (1) above shall not apply in relation to a disposal of assets if on the assumption in that sub-paragraph a loss would accrue on that disposal to the person making the disposal and either a smaller loss or a gain would accrue if the said sub-paragraph (1) did not apply, but in a case where this sub-paragraph would otherwise substitute a gain for a loss it shall be assumed, in relation to the disposal, that the relevant assets were sold by the owner, and immediately re-acquired by him, for a consideration such that, on the disposal, neither a gain nor a loss accrued to the person making the disposal.
- The displacement of sub-paragraph (1) above by this sub-paragraph shall not be taken as bringing paragraph 11 above into operation.
- (3) An election under this paragraph shall be made by notice in writing to the inspector given within two years from the end of the year of assessment or accounting period of a company in which the disposal is made or such further time as the Board may by notice in writing allow.
- (4) For the avoidance of doubt it is hereby declared that an election under this paragraph is irrevocable.
- (5) An election may not be made under this paragraph as respects, or in relation to, an asset the market value of which at a date on or after 6th April 1965, and before the date of the disposal to which the election relates, is to be ascertained in pursuance of section 35 of this Act (part disposals).

**Modifications etc. (not altering text)**

**C256** See [Trustee Savings Banks Act 1985 \(c. 58, SIF 110\)](#), [s. 5](#) and Sch. 2 para. 3(2) for calculation of the market value of shares in successors to existing banks acquired by new holding companies under that Act for the purposes of [Capital Gains Tax Act 1979 \(c. 14\)](#), [Sch. 5 para. 12](#)

*Unquoted shares, commodities, etc.*

- 13 (1) This paragraph has effect as respects shares held by any person on 6th April 1965 other than shares which are to be treated under this Act as if disposed of and immediately re-acquired by him on that date.
- (2) Section 65 of this Act (pooling of shares and other assets) shall not apply in relation to the shares while that person continues to hold them and, in particular, shall not apply in relation to a disposal of the shares by him.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (3) For the purpose of—
- (a) identifying the shares so held on 6th April 1965 with shares previously acquired, and
  - (b) identifying the shares so held on that date with shares subsequently disposed of, and distinguishing them from shares acquired subsequently,
- so far as the shares are of the same class shares bought at [<sup>F282</sup>a later time] shall be deemed to have been disposed of before shares bought at [<sup>F282</sup>an earlier time].
- (4) Sub-paragraph (3) above has effect subject to section 66 of this Act (disposal on or before day of acquisition).
- (5) Shares shall not be treated for the purposes of this paragraph as being of the same class unless if dealt with on a recognised stock exchange in the United Kingdom or elsewhere they would be so treated, but shall be treated in accordance with this paragraph notwithstanding that they are identified in a different way by a disposal or by the transfer or delivery giving effect to it.
- (6) This paragraph, without sub-paragraph (5), shall apply in relation to any assets, other than shares, which are of a nature to be dealt with without identifying the particular assets disposed of or acquired.

#### Textual Amendments

**F282** Words substituted by [Finance Act 1982 \(c. 39, SIF 63:2\)](#), [s. 88\(8\)](#) and Sch. 13 para. 11 with respect to securities acquired before 6 April 1982 or in the case of a company, 1 April 1982

#### *Reorganisation of share capital, conversion of securities, etc.*

- 14 (1) For the purposes of this Act, including Chapter II of Part II, it shall be assumed that any shares or securities held by a person on 6th April 1965 (identified in accordance with paragraph 13 above) which, in accordance with Chapter II of Part IV of this Act, are to be regarded as being or forming part of a new holding were sold and immediately re-acquired by him on 6th April 1965 at their market value on that date.
- (2) If, at any time after 5th April 1965, a person comes to have, in accordance with the said Chapter II of Part IV, a new holding sub-paragraphs (3) to (5) of paragraph 11 above shall have effect as if—
- (a) the new holding had at that time been sold by the owner, and immediately re-acquired by him, at its market value at that time, and
  - (b) accordingly, the amount of any gain on a disposal of the new holding or any part of it shall be computed—
    - (i) by apportioning in accordance with paragraph 11 above the gain or loss over a period ending at the said time, and
    - (ii) by bringing into account the entire gain or loss over the period from that time to the date of the disposal.
- (3) This paragraph shall not apply in relation to a reorganisation of a company's share capital if the new holding differs only from the original shares in being a different number, whether greater or less, of shares of the same class as the original shares.



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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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## PART IV

### MISCELLANEOUS

#### *Capital allowances*

- 15 If under any provision in this Schedule it is to be assumed that any asset was on 6th April 1965 sold by the owner, and immediately re-acquired by him, sections 34 and 39 of this Act (restriction of losses by reference to capital allowances, and wasting assets qualifying for capital allowances) shall apply in relation to any capital allowance or renewals allowance made in respect of the expenditure actually incurred by the owner in providing the asset, and so made for the year 1965-66 or for any subsequent year of assessment, as if it were made in respect of the expenditure which, on the said assumption, was incurred by him in re-acquiring the asset on 7th April 1965.

#### *Assets transferred to close companies*

- 16 (1) This paragraph has effect where—
- (a) at any time, including a time before 7th April 1965, any of the persons having control of a close company, or any person who is connected with a person having control of a close company, has transferred assets to the company, and
  - (b) paragraph 11 above applies in relation to a disposal by one of the persons having control of the company of shares or securities in the company, or in relation to a disposal by a person having, up to the time of disposal, a substantial holding of shares or securities in the company, being in either case a disposal after the transfer of the assets.
- (2) So far as the gain accruing to the said person on the disposal of the shares is attributable to a profit on the assets so transferred, the period over which the gain is to be treated under paragraph 11 above as growing at a uniform rate shall begin with the time when the assets were transferred to the company, and accordingly a part of a gain attributable to a profit on assets transferred on or after 6th April 1965 shall all be a chargeable gain.
- (3) This paragraph shall not apply where a loss, and not a gain, accrues on the disposal.

#### *Husbands and wives*

- 17 Where section 44 of this Act is applied in relation to a disposal of an asset by a man to his wife, or by a man's wife to him, then in relation to a subsequent disposal of the asset (not within section 44) the one making the disposal shall be treated for the purposes of this Schedule as if the other's acquisition or provision of the asset had been his or her acquisition or provision of it.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### *Compensation and insurance money*

- 18 Where section 21(4)(a) of this Act applies to exclude a gain which, in consequence of this Schedule, is not all chargeable gain, the amount of the reduction to be made under section 21(4)(b) (corresponding reduction in allowable expenditure in respect of new asset) shall be the amount of the chargeable gain and not the whole amount of the gain; and in section 21(5)(b) of this Act (corresponding reduction in allowable expenditure in respect of the new asset where part only of the consideration in respect of the old asset has been applied as such expenditure) for the reference to the amount by which the gain is reduced under section 21(5)(a) there shall be substituted a reference to the amount by which the chargeable gain is proportionately reduced under the said section 21(5)(a).

## SCHEDULE 6

Section 157(1).

### TRANSITORY

### PART I

### VALUATION

#### *Preliminary*

- 1 This Part of this Schedule has effect in cases where the market value of an asset or any part of it at a time before the commencement of this Act is material to the computation of a gain under this Act, and in those cases—
- (a) section 150 of this Act (which is the same as paragraph 2 below with the amendments in paragraph 4) shall not apply,
  - (b) section 152 of this Act shall only apply to the extent specified in paragraphs 5 to 8 below,
- (but sections 151 and 153 of this Act shall apply in those cases as in later cases).

#### *Original rules*

- 2 (1) “Market value” in relation to any assets means the price which those assets might reasonably be expected to fetch on a sale in the open market.
- (2) In estimating the market value of any assets no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole of the assets is to be placed on the market at one and the same time:  
Provided that where capital gains tax is chargeable, or an allowable loss accrues, in consequence of a death before 31st March 1971 and the market value of any property on the date of death taken into account for the purposes of that tax or loss has been depreciated by reason of the death the estimate of the market value shall take that depreciation into account.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (3) The market value of shares or securities quoted on the London Stock Exchange shall, except where in consequence of special circumstances prices so quoted are by themselves not a proper measure of market value, be as follows—
- (a) the lower of the two prices shown in the quotations for the shares or securities in the Stock Exchange Official Daily List on the relevant date plus one-quarter of the difference between those two figures, or
  - (b) halfway between the highest and lowest prices at which bargains, other than bargains done at special prices, were recorded in the shares or securities for the relevant date,
- choosing the amount under paragraph (a) if less than that under paragraph (b), or if no such bargains were recorded for the relevant date, and choosing the amount under paragraph (b) if less than that under paragraph (a):
- Provided that—
- (i) this sub-paragraph shall not apply to shares or securities for which some other stock exchange in the United Kingdom affords a more active market, and
  - (ii) if the London Stock Exchange is closed on the relevant date the market value shall be ascertained by reference to the latest previous date or earliest subsequent date on which it is open, whichever affords the lower market value.
- (4) “Market value” in relation to any rights of unit holders in any unit trust scheme the buying and selling prices of which are published regularly by the managers of the scheme shall mean an amount equal to the buying price (that is the lower price) so published on the relevant date, or if none were published on that date, on the latest date before.
- (5) In relation to an asset of a kind the sale of which is subject to restrictions imposed under the <sup>M39</sup>Exchange Control Act 1947 such that part of what is paid by the purchaser is not retainable by the seller the market value, as arrived at under sub-paragraph (1), (3) or (4) above, shall be subject to such adjustment as is appropriate having regard to the difference between the amount payable by a purchaser and the amount receivable by a seller.
- (6) This paragraph has effect subject to the following provisions of this Part of this Schedule.

**Marginal Citations**

**M39** 1947 c. 14.

*Value of quoted securities on 6th April 1965*

- 3
- (1) For the purpose of ascertaining the market value of any shares or securities in accordance with paragraph 1(2) of Schedule 5 to this Act, paragraph 2 above shall have effect subject to the provisions of this paragraph.
  - (2) Sub-paragraph (3)(a) of that paragraph shall have effect as if for the words, “one-quarter” there were substituted the words “one-half”, and as between the amount under paragraph (a) and the amount under paragraph (b) of that sub-paragraph the higher, and not the lower, amount shall be chosen.

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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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- (3) Sub-paragraph (4) of that paragraph shall have effect as if for the reference to an amount equal to the buying price there were substituted a reference to an amount halfway between the buying and selling prices.
- (4) Where the market value of any shares or securities not within the said sub-paragraph (3) falls to be ascertained by reference to a pair of prices quoted on a stock exchange, an adjustment shall be made so as to increase the market value by an amount corresponding to that by which any market value is increased under sub-paragraph (2) above.

*References to Stock Exchange on or after 25th March 1973*

- 4 Except in relation to anything done before 25th March 1973, paragraph 2(3) above shall have effect subject to the following amendments—
- (a) for the words “quoted on the London Stock Exchange” there shall be substituted the words “listed in The Stock Exchange Daily Official List” and for the words “so quoted” the words “quoted in that List”;
  - (b) for the words “the Stock Exchange Official Daily List” there shall be substituted the words “The Stock Exchange Daily Official List”;
  - (c) for the words “some other stock exchange in the United Kingdom affords a more active market” there shall be substituted the words “The Stock Exchange provides a more active market elsewhere than on the London trading floor”; and
  - (d) for the words “if the London Stock Exchange is closed” there shall be substituted the words “if the London trading floor is closed”.

*Unquoted shares and securities: application of section 152  
to acquisitions before commencement of this Act*

- 5 Paragraphs 6 to 8 below shall have effect with respect to the application of section 152 of this Act, and in those paragraphs “asset” means an asset to which that section applies.
- 6 Subject to paragraphs 7 and 8 below, if the market value of an asset or any part of it at the time of its acquisition is material to the computation of any chargeable gain under this Act then, notwithstanding that the acquisition may have occurred before 6th July 1973 (the date on which the provision re-enacted in section 152 of this Act first came into operation as respects disposals) or that the market value of the asset at the time of its acquisition may have been fixed for the purposes of a contemporaneous disposal, section 152 of this Act shall apply for the purposes of the determination of the market value of the asset or, as the case may be, that part of it at the time of its acquisition.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

*Unquoted shares or securities: acquisition on death*

- 7 (1) This paragraph applies if, in a case where the market value of an asset at the time of its acquisition is material as mentioned in paragraph 6 above,—
- (a) the acquisition took place on the occasion of a death occurring after 30th March 1971 and before 6th July 1973, and
  - (b) by virtue of paragraph 9 below, the principal value of the asset for the purposes of estate duty on that death would, apart from this paragraph, be taken to be the market value of the asset at the date of the death for the purposes of this Act.
- (2) If the principal value referred to in sub-paragraph (1)(b) above falls to be determined as mentioned in section 55 of the <sup>M40</sup>Finance Act 1940 or section 15 of the <sup>M41</sup>Finance (No. 2) Act (Northern Ireland) 1946 (certain controlling shareholdings to be valued on an assets basis), nothing in section 152 of this Act shall affect the operation of paragraph 9 below for the purpose of determining the market value of the asset at the date of the death.
- (3) If sub-paragraph (2) above does not apply, paragraph 9 below shall not apply as mentioned in sub-paragraph (1)(b) above and the market value of the asset on its acquisition at the date of the death shall be determined in accordance with paragraphs 2 and 6 above.

**Marginal Citations**

**M40** 1940 c. 29.

**M41** 1946 c. 17 (N.I.)

*Unquoted shares or securities: prior part disposal*

- 8 (1) In any case where—
- (a) before 6th July 1973 there has been a part disposal of an asset to which section 152 of this Act applies (in this paragraph referred to as “the earlier disposal”), and
  - (b) by virtue of any enactment, the acquisition of the asset or any part of it was deemed to be for a consideration equal to its market value, and
  - (c) on or after 6th July 1973 there is a disposal (including a part disposal) of the property which remained undisposed of immediately before that date (in this paragraph referred to as “the later disposal”),
- sub-paragraph (2) below shall apply in computing any chargeable gain accruing on the later disposal.
- (2) Where this sub-paragraph applies, the apportionment made by virtue of paragraph 7 of Schedule 6 to the <sup>M42</sup>Finance Act 1965 (corresponding to section 35 of this Act) on the occasion of the earlier disposal shall be recalculated on the basis that section 152(3) of this Act was in force at the time, and applied for the purposes, of the determination of—
- (a) the market value referred to in sub-paragraph (1)(b) above, and

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (b) the market value of the property which remained undisposed of after the earlier disposal, and
- (c) if the consideration for the earlier disposal was, by virtue of any enactment, deemed to be equal to the market value of the property disposed of, that market value.

**Marginal Citations**

**M42** 1965 c. 25.

*Value determined for estate duty*

- 9 (1) Where estate duty (including estate duty leviable under the law of Northern Ireland) is chargeable in respect of any property passing on a death after 30th March 1971 and the principal value of an asset forming part of that property has been ascertained (whether in any proceedings or otherwise) for the purposes of that duty, the principal value so ascertained shall, subject to paragraph 7(3) above, be taken for the purposes of this Act to be the market value of that asset at the date of the death.
- (2) Where the principal value has been reduced under section 35 of the <sup>M43</sup>Finance Act 1968 or section 1 of the <sup>M44</sup>Finance Act (Northern Ireland) 1968 (tapering relief for gifts inter vivos etc.), the reference in sub-paragraph (1) above to the principal value as ascertained for the purposes of estate duty is a reference to that value as so ascertained before the reduction.

**Marginal Citations**

**M43** 1968 c. 44.

**M44** 1968 c. 17 (N.I.)

**PART II**

ASSETS ACQUIRED BEFORE COMMENCEMENT

*Events before commencement*

- 10 (1) The substitution of this Act for the corresponding enactments repealed by this Act shall not alter the effect of any provision enacted before this Act (whether or not there is a corresponding provision in this Act) so far as it determines whether and to what extent events in, or expenditure incurred in, or other amounts referable to, a period earlier than the chargeable periods to which this Act applies may be taken into account for any tax purposes in a chargeable period to which this Act applies.
- (2) Without prejudice to sub-paragraph (1) above, the repeals made by this Act shall not affect—

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (a) the enactments specified in Part V of Schedule 14 to the <sup>M45</sup>Finance Act 1971 (charge on death) so far as their operation before repeal falls to be taken into account in chargeable periods to which this Act applies,
  - (b) the application of the <sup>M46</sup>enactments repealed by this Act to events before 6th April 1965 in accordance with paragraph 31 of Schedule 6 to the Finance Act 1965.
- (3) This paragraph has no application to the law relating to the determination of the market value of assets (which is stated for all relevant times and occasions in Part I of this Schedule, Part VIII of this Act).

#### Marginal Citations

**M45** 1971 c. 68.

**M46** 1965 c. 25.

### PART III

#### OTHER TRANSITORY PROVISIONS

##### *Value-shifting*

- 11 Section 26 of this Act applies only where the reduction in value mentioned in subsection (1) of that section (or, in a case within subsection (8) of that section, the reduction or increase in value) is after 29th March 1977.

##### *Assets acquired on disposal chargeable under Case VII of Schedule D*

- 12 (1) In this paragraph references to a disposal chargeable under Case VII are references to cases where the acquisition and disposal was in circumstances that the gain accruing on it was chargeable under Case VII of Schedule D, or where it would have been so chargeable if there were a gain so accruing.
- (2) The amount or value of the consideration for the acquisition of an asset by the person acquiring it on a disposal chargeable under Case VII shall not under provision of this Act be deemed to be an amount greater than the amount taken into account as consideration on that disposal for the purposes of Case VII.
- (3) Any apportionment of consideration or expenditure falling to be made in relation to a disposal chargeable under Case VII in accordance with section 164(4) of [F283the Taxes Act 1970], and in particular in a case where section 164(6) of that Act (enhancement of value of land by acquisition of adjoining land) applied, shall be followed for the purposes of this Act both in relation to a disposal of the assets acquired on the disposal chargeable under Case VII and, where the disposal chargeable under Case VII was a part disposal, in relation to a disposal of what remains undisposed of.
- (4) Sub-paragraph (3) above has effect notwithstanding section 43(4) of this Act (general provisions for apportionment).



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### Textual Amendments

**F283** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 para. 15](#)

### *Unrelieved Case VII losses*

- 13 Where no relief from income tax (for a year earlier than 1971-72) has been given in respect of a loss or part of a loss allowable under Case VII of Schedule D the loss or part shall, notwithstanding that the loss accrued before that year, be an allowable loss for the purposes of capital gains tax, but subject to any restrictions imposed by section 62 of this Act (transactions between connected persons).

### *Dispositions before 27th March 1974 which attract capital transfer tax*

- 14 Paragraphs 15 and 16 below have effect in respect of dispositions before 27th March 1974 where the donor dies before 27th March 1981.

### *Gifts subject to capital transfer tax on death*

- 15 (1) Where the value of any asset comprised in a gift inter vivos is by virtue of section 22(5) of the <sup>M47</sup>Finance Act 1975 included in the value of the estate of any person for the purposes of capital transfer tax, and at the time of that person's death the asset—
- (a) is owned by the donee, or
  - (b) is property settled by the gift or property which for the purposes of section 38 of the <sup>M48</sup>Finance Act 1957 would by virtue of subsection (9) thereof be treated as property settled by the gift,
- then, subject to sub-paragraph (2) below, the asset shall for the purposes of this Act be deemed to be disposed of and immediately re-acquired at that time by the donee or trustee for a consideration equal to the value so included; but no chargeable gain shall accrue on the disposal.
- (2) Where the value so included is reduced by virtue of section 35 of the <sup>M49</sup>Finance Act 1968, the appropriate portion only of the asset shall be deemed to be so disposed of and re-acquired; and for this purpose the appropriate portion is the reduced value so included divided by the value before the reduction.

### Marginal Citations

**M47** 1975 c. 7.

**M48** 1957 c. 49.

**M49** 1968 c. 44.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

*Life interest terminated on death on which capital transfer tax is chargeable*

- 16 Where a life interest within the meaning of section 55 of this Act in settled property is terminated by the death of a person on whose death capital transfer tax is chargeable under section 22 of the <sup>M50</sup>Finance Act 1975 and, under subsection (5) of that section, a value falls to be included in respect of the settled property, then—
- (a) if that value is the principal value of the property, section 56 of this Act shall apply as if that person had been entitled to the life interest at his death, and
  - (b) if that value is a value reduced by any percentage under paragraph 3 of Part II of Schedule 17 to the <sup>M51</sup>Finance Act 1969, any chargeable gain or allowable loss accruing on the disposal deemed to be made under section 54(1) or 55(1) of this Act shall be reduced by the complementary percentage, that is to say the percentage found by subtracting the first-mentioned percentage from one hundred per cent.

**Marginal Citations**

**M50** 1975 c. 7.

**M51** 1969 c. 32.

*Devaluation of sterling: securities acquired with borrowed foreign currency*

- 17 (1) This paragraph applies where, in pursuance of permission granted under the <sup>M52</sup>Exchange Control Act 1947, currency other than sterling was borrowed before 19th November 1967 for the purpose of investing in foreign securities (and had not been repaid before that date), and it was a condition of the permission—
- (a) that repayment of the borrowed currency should be made from the proceeds of the sale in foreign currency of the foreign securities so acquired or out of investment currency, and
  - (b) that the foreign securities so acquired should be kept in separate accounts to distinguish them from others in the same ownership,
- and securities held in such a separate account on 19th November 1967 are in this paragraph referred to as “designated securities”.
- (2) In computing the gain accruing to the borrower on the disposal of any designated securities or on the disposal of any currency or amount standing in a bank account on 19th November 1967 and representing the loan the sums allowable as a deduction under section 32(1)(a) of this Act shall be increased by multiplying by seven sixths: Provided that the total amount of the increases so made in computing all gains (and losses) which are referable to any one loan (made before 19th November 1967) shall not exceed one sixth of the sterling parity value of that loan at the time it was made.
- (3) Section 65 of this Act (rules for identification: pooling) shall apply separately in relation to any designated securities held in a particular account until such time as a disposal takes place on the occurrence of which the proviso to sub-paragraph (2) above operates to limit the increases which would otherwise be made under that sub-paragraph in allowable deductions.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (4) In this paragraph and paragraph 18 below “foreign securities” means securities expressed in a currency other than sterling, or shares having a nominal value expressed in a currency other than sterling, or the dividends on which are payable in a currency other than sterling.

**Marginal Citations**

**M52** 1947 c. 14.

*Devaluation of sterling: foreign insurance funds*

- 18 (1) The sums allowable as a deduction under section 32(1)(a) of this Act in computing any gains to which this paragraph applies shall be increased by multiplying by seven-sixths.
- (2) This paragraph applies to gains accruing—
- (a) to any underwriting member of Lloyd’s or to any other approved association of underwriters, or
  - (b) to any company engaged in the business of marine protection and indemnity insurance on a mutual basis,
- on the disposal by that person after 18th November 1967 of any foreign securities which on that date formed part of a trust fund—
- (i) established by that person in any country or territory outside the United Kingdom, and
  - (ii) representing premiums received in the course of that person’s business, and
  - (iii) wholly or mainly used for the purpose of meeting liabilities arising in that country or territory in respect of that business.

*Gilt-edged securities past redemption date*

- 19 So far as material for the purposes of this or any other Act, the definition of “gilt-edged securities” in Schedule 2 to this Act shall include any securities which were specified securities for the purposes of section 41 of the <sup>M53</sup>Finance Act 1969, and the redemption date of which fell before 1st January 1979.

**Marginal Citations**

**M53** 1969 c. 32.

*Reorganisation of share capital, conversion of securities, etc.*

- 20 (1) Chapter II of Part IV of this Act has effect subject to the provisions of this paragraph.
- (2) The substitution of the said Chapter II for the enactments repealed by this Act shall not alter the law applicable to any reorganisation or reduction of share

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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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capital, conversion of securities or company amalgamation taking place before the commencement of this Act.

- (3) Sub-paragraph (2) above applies in particular to the law determining whether or not any assets arising on an event mentioned in that sub-paragraph are to be treated as the same asset as the original holding of shares, securities or other assets.
- (4) Notwithstanding the preceding provisions of this paragraph, section 84 of this Act (compensation stock) shall apply where the compulsory acquisition took place after 6th April 1976, but before the commencement of this Act, as well as where it took place after the commencement of this Act.

*Land: allowance for betterment levy*

- 21 (1) Where betterment levy charged in the case of any land in respect of an act or event falling within Case B or Case C or, if it was the renewal, extension or variation of a tenancy, Case F—
  - (a) has been paid, and
  - (b) has not been allowed as a deduction in computing the profits or gains or losses of a trade for the purposes of Case I of Schedule D;then, if the person by whom the levy was paid disposes of the land or any part of it and so claims, the following provisions of this paragraph shall have effect for the purpose of applying Chapter II of Part II of, and Schedule 5 to, this Act to the disposal.
- (2) Paragraph 9 of Schedule 5 to this Act (sales of land reflecting development value) shall apply where the condition stated in subparagraph (1)(a) thereof is satisfied, notwithstanding that the condition stated in sub-paragraph (1)(b) thereof is not satisfied.
- (3) Subject to the following provisions of this paragraph, there shall be ascertained the excess, if any, of—
  - (a) the net development value ascertained for the purposes of the levy, over
  - (b) the increment specified in sub-paragraph (6) below;and the amount of the excess shall be treated as an amount allowable under section 32(1)(b) of this Act.
- (4) Where the act or event in respect of which the levy was charged was a part disposal of the land, the said section 32 shall apply as if the part disposal had not taken place and sub-paragraph (5) below shall apply in lieu of sub-paragraph (3) above.
- (5) The amount or value of the consideration for the disposal shall be treated as increased by the amount of any premium or like sum paid in respect of the part disposal, and there shall be ascertained the excess, if any, of—
  - (a) the aggregate specified in sub-paragraph (7) below, over
  - (b) the increment specified in sub-paragraph (6) below;and the amount of the excess shall be treated as an amount allowable under section 32(1)(b) of this Act.
- (6) The increment referred to in sub-paragraphs (3)(b) and (5)(b) above is the excess, if any, of—
  - (a) the amount or value of the consideration brought into account under section 32 (1)(a) of this Act, over

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (b) the base value ascertained for the purposes of the levy.
- (7) The aggregate referred to in sub-paragraph (5)(a) above is the aggregate of—
- (a) the net development value ascertained for the purposes of the levy, and
  - (b) the amount of any premium or like sum paid in respect of the part disposal, in so far as charged to tax under Schedule A (or, as the case may be, Case VIII of Schedule D), and
  - (c) the chargeable gain accruing on the part disposal.
- (8) Where betterment levy in respect of more than one act or event has been charged and paid as mentioned in sub-paragraph (1) above sub-paragraphs (2) to (7) above shall apply without modifications in relation to the betterment levy in respect of the first of them; but in relation to the other or others sub-paragraph (3) or, as the case may be, (5) above shall have effect as if the amounts to be treated thereunder as allowable under section 32(1)(b) of this Act were the net development value specified in sub-paragraph (3)(a) or, as the case may be, the aggregate referred to in sub-paragraph (5) (a) of this paragraph.
- (9) Where the disposal is of part only of the land sub-paragraphs (2) to (8) above shall have effect subject to the appropriate apportionments.
- (10) References in this paragraph to a premium include any sum payable as mentioned in subsection (3) or (4) of section 80 of [<sup>F284</sup>the Taxes Act 1970] (sums payable in lieu of rent or as consideration for the surrender of lease or for variation or waiver of term) and, in relation to Scotland, a grassum.

#### Textual Amendments

**F284** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29 para. 15](#)

#### *Replacement of business assets*

- 22 (1) Sections 115 to 121 of this Act (which are substituted for section 33 of the <sup>M54</sup>Finance Act 1965 as amended by subsequent enactments) have effect subject to the provisions of this paragraph.
- (2) The substitution of those sections for the enactments repealed by this Act shall not alter the effect of those repealed enactments so far as they apply where the acquisition of, or of the interest in, the new assets (but not the disposal of, or of the interest in, the old assets) was before the commencement of this Act.
- (3) Where the said section 33 of the <sup>M55</sup>Finance Act 1965 applied on the acquisition, before 23rd July 1970, of, or of an interest in, any new assets and the adjustment required to be made under subsection (1)(a) or subsection (2)(a) of that section was, by virtue of paragraph 9(5) of Schedule 14 to the <sup>M56</sup>Finance Act 1967 (allowance for development value), required to be computed as mentioned therein, any adjustment required to be made under section 115(1)(b), or 116(1)(b), of this Act shall also be so computed, notwithstanding the repeals made by the <sup>M57</sup>Finance Act 1971 (restoring development value).

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**Marginal Citations**

**M54** 1965 c. 25.

**M55** 1965 c. 25.

**M56** 1967 c. 54.

**M57** 1971 c. 68.

*Transfer of business to a company*

23 Section 123 of this Act shall have effect as if after subsection (4) there were inserted as subsection (4A)—

- ( If any development gains within the meaning of Part III of the Finance Act 1974 accrue to the transferor in respect of his disposal of the assets included in the business, then for the purposes of subsection (4) above B (that is, the value of the whole of the consideration received by the transferor in exchange for the business) shall be taken to be what it would be if the value of the consideration other than shares so received by him were less by an amount equal to those gains.”

*Works of art etc.*

24 The repeals made by this Act do not affect the continued operation of sections 31 and 32 of the <sup>M58</sup>Finance Act 1965, in the form in which they were before 13th March 1975, in relation to estate duty in respect of deaths occurring before that date.

**Marginal Citations**

**M58** 1965 c. 25.

*Disposal before acquisition*

25 The substitution of this Act for the corresponding enactments repealed by this Act shall not alter the effect of any provision enacted before this Act (whether or not there is a corresponding provision in this Act) so far as it relates to an asset which—

(a) was disposed of before being acquired, and

(b) was disposed of before the commencement of this Act.

*Estate duty*

26 Nothing in the repeals made by this Act shall affect any enactment as it applies to the determination of any principal value for the purposes of estate duty.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

*Income and corporation tax: premiums on leases*

- 27 The repeal by this Act of section 116(3) of the <sup>M59</sup>Finance Act 1972 shall not affect its application by paragraph 3 of Schedule 13 to that Act.

**Marginal Citations**

**M59** 1972 c. 41.

*Validity of subordinate legislation*

- 28 So far as this Act re-enacts any provision contained in a statutory instrument made in exercise of powers conferred by any Act, it shall be without prejudice to the validity of that provision, and any question as to its validity L36 shall be determined as if the re-enacted provision were contained in a statutory instrument made under those powers.

*Saving for Part II of this Schedule*

- 29 The provisions of this Part of this Schedule are without prejudice to the generality of Part II of this Schedule.

SCHEDULE 7

Section 157(2).

CONSEQUENTIAL AMENDMENTS

*Taxes Management Act 1970 (c. 9)*

- 1 (1) The Taxes Management Act 1970 shall be amended as follows.
- (2) In section 12(2) for paragraph (a) substitute—
- “*(a) any assets exempted by the following provisions of the Capital Gains Tax Act 1979, namely—*
- (i) section 19(4) (rights to winnings from pool betting, lotteries or games with prizes),*
- (ii) section 71 (government non-marketable securities),*
- (iii) section 130, 131 or 133 (passenger vehicles, decorations for valour or gallant conduct and foreign currency for personal expenditure)”.*
- (3) In section 28(1) for “section 41” (in both places) substitute “ section 15 ”, for “section 42” (in both places) substitute “ section 17 ”, and for “Finance Act 1965” substitute “ Capital Gains Tax Act 1979 ”.



*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

**Modifications etc. (not altering text)**

**C257** Part of the text of Sch. 7 paras. 1(2), 2(2)(3), 3, 4, 7 and Sch. 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*Income and Corporation Taxes Act 1970 (c. 10)*

2 (1) The Taxes Act shall be amended as follows.

[<sup>F285</sup>(2) In section 270(3) for the words from “disposal” to the end of the subsection substitute—

“disposal, and the asset consists of specified securities, the company acquiring the asset shall be treated for the purposes of sections 67 to 70 of the Capital Gains Tax Act 1979 as acquiring it at the time when the other acquired it.”]

(3) At the end of section 270 (in place of the subsection (6) inserted by paragraph 12 of Schedule 10 to the Finance Act 1971) insert—

“(6) In this section “specified securities” means securities which are gilt-edged securities as defined by Schedule 2 to the Capital Gains Tax Act 1979.”

(4) In section 279(1)(a) after “1965” insert “ but before 20th April 1977 ”.

**Textual Amendments**

**F285** Sch. 7 para. 2(2) repealed by Finance Act 1985 (c. 54), s. 98(6) and Sch. 27 Pt. VII with respect to disposals on or after 2 July 1986

**Modifications etc. (not altering text)**

**C258** Part of the text of Sch. 7 paras. 1(2), 2(2)(3), 3, 4, 7 and Sch. 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*Finance Act 1974 (c. 30)*

[<sup>F286</sup>3 For paragraph 18(6) of Schedule 3 to the Finance Act 1974 substitute—

“(6) The following provisions of the Capital Gains Tax Act 1979 shall, with any necessary modifications, apply for the purposes of this paragraph as they apply for the purposes of section 115 of that Act, namely—

- (a) subsections (3) to (8) of the said section 115,
- (b) section 119,
- (c) section 121.”]

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

### Textual Amendments

**F286** Sch. 7 paras. 3, 4, 6 repealed by Finance Act 1985 (c. 54), s. 98(6) and Sch. 27 Pt. X in relation to disposals of interests in land taking place on or after 19 March 1985 but without affecting the construction of Capital Gains Tax Act 1979 (c. 14), Sch. 5 para. 9

### Modifications etc. (not altering text)

**C259** Part of the text of Sch. 7 paras. 1(2), 2(2)(3), 3, 4, 7 and Sch. 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

[<sup>F287</sup>4 For paragraph 19 of Schedule 3 to the Finance Act 1974 substitute—

“19 (1) Paragraph 18 above shall have effect subject to the provisions of this paragraph, in which—

- (a) the “tax reduction” means the reduction in the income tax or corporation tax to which the person carrying on the trade is chargeable which is made under sub-paragraph (3) of the said paragraph 18 in connection with a disposal of an asset (called “asset No. 1”);
- (b) the “expenditure reduction” means the related amount by which under sub-paragraph (4) of that paragraph, and apart from the provisions of this paragraph, the expenditure allowable in respect of another asset (called “asset No. 2”) is reduced;
- (c) any reference to an expenditure reduction of any amount being carried forward to any asset is a reference to a reduction of that amount in expenditure allowable in respect of that asset.

(2) If asset No. 2 is a depreciating asset, the expenditure reduction shall not be carried forward, but—

- (a) when the claimant disposes of asset No. 2, or
- (b) when he ceases to use asset No. 2 for the purposes of a trade carried on by him, or
- (c) on the expiration of a period of ten years beginning with the acquisition of asset No. 2,

whichever event comes first. an amount equal to the tax reduction may be assessed to tax and recovered accordingly.

Any assessment to income tax or corporation tax under this paragraph shall be made under Case VI of Schedule D.

(3) If, in the circumstances specified in sub-paragraph (4) below, the claimant acquires an asset (called “asset No. 3”) which is not a depreciating asset, and so claims under paragraph 18 above—

- (a) the expenditure reduction shall be carried forward to asset No. 3, and
- (b) the claim which applies to asset No. 2 shall be treated as withdrawn (so that sub-paragraph (2) above does not apply).

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- (4) The circumstances are that asset No. 3 is acquired not later than the occurrence of whichever of the events mentioned in sub-paragraph (2) above comes first and, assuming—
- (a) that the consideration for asset No. 1 was applied in acquiring asset No. 3, and
  - (b) that the time between the disposal of asset No. 1 and the acquisition of asset No. 3 was within the time limited by section 115(3) of the Capital Gains Tax Act 1979 as applied by paragraph 18(6) above,
- the whole amount of the expenditure reduction could be carried forward from asset No. 1 to asset No. 3; and the claim under sub-paragraph (3) above shall be accepted as if those assumptions were true.
- (5) For the purposes of this paragraph an asset is a depreciating asset at any time if—
- (a) at that time it is a wasting asset as defined in section 37(1) of the Capital Gains Tax Act 1979, or
  - (b) within the period of ten years beginning at that time it will become a wasting asset (so defined).
- (6) This paragraph shall be construed as one with paragraph 18 above.”]

**Textual Amendments**

**F287** Sch. 7 paras. 3, 4, 6 repealed by Finance Act 1985 (c. 54), s. 98(6) and Sch. 27 Pt. X in relation to disposals of interests in land taking place on or after 19 March 1985 but without affecting the construction of Capital Gains Tax Act 1979 (c. 14), Sch. 5 para. 9

**Modifications etc. (not altering text)**

**C260** Part of the text of Sch. 7 paras. 1(2), 2(2)(3), 3, 4, 7 and Sch. 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

F288

5

**Textual Amendments**

**F288** Sch. 7 para. 5 repealed by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 844 and Sch. 31

[<sup>F289</sup> Development Land Tax Act 1976 (c. 24)]

**Textual Amendments**

**F289** Sch. 7 paras. 3, 4, 6 repealed by Finance Act 1985 (c. 54), s. 98(6) and Sch. 27 Pt. X in relation to disposals of interests in land taking place on or after 19 March 1985 but without affecting the construction of Capital Gains Tax Act 1979 (c. 14), Sch. 5 para. 9

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

- 6 (1) Paragraph 5 of Schedule 6 to the Development Land Tax Act 1976 shall be amended as follows.
- (2) In sub-paragraph (1)(a)—
- (a) for “section 33 of the Finance Act 1965” substitute “ sections 115 to 121 of the Capital Gains Tax Act 1979 ”, and
- (b) for “applies” substitute “ apply ”.
- (3) In sub-paragraph (2) for “section 33 of the Finance Act 1965” substitute “ sections 115 to 121 of the Capital Gains Tax Act 1979 ”.
- (4) In sub-paragraph (4)—
- (a) for “section 33 of the Finance Act 1965 has effect subject to the provisions of paragraph 16 of Schedule 19 to the Finance Act 1969” substitute “ sections 115 and 116 of the Capital Gains Tax Act 1979 have effect subject to the provisions of section 117 of that Act ”, and
- (b) for “sub-paragraph (2) of that paragraph accrues in accordance with that sub-paragraph” substitute “ subsection (2) of the said section 117 accrues in accordance with that sub-section ”.
- (5) In sub-paragraph (4)(a) for “that sub-paragraph” substitute “ subsection (2) of the said section 117 ”.
- (6) In sub-paragraph (4)(b) for “sub-paragraph (3) of that paragraph” substitute “ subsection (3) of the said section 117 ”.
- (7) In sub-paragraph (6)—
- (a) for “section 33 of the Finance Act 1965” substitute “ sections 115 to 121 of the Capital Gains Tax Act 1979 ”, and
- (b) for “paragraph 16 of Schedule 19 to the Finance Act 1969” substitute “ section 117 of that Act ”.

*Finance Act 1976 (c. 40)*

- 7 For section 54(5) of the Finance Act 1976 substitute—
- “(5) Subsection (6) of section 84 of the Capital Gains Tax Act 1979 (gilt-edged securities not issued until after the date when shares are compulsorily acquired) shall apply in relation to this section as it applies in relation to that section, and in this section—
- “gilt-edged securities” has the meaning given by Schedule 2 to that Act;
- “shares” includes securities within the meaning of section 82 of that Act.”

**Modifications etc. (not altering text)**

**C261** Part of the text of Sch. 7 paras. 1(2), 2(2)(3), 3, 4, 7 and Sch. 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

*Translation of references to Part III of Finance Act 1965*

- 8 In the enactments specified in the Table below substitute “the Capital Gains Tax Act 1979” (or “The Capital Gains Tax Act 1979” if at the beginning of a sentence)—
- (a) in the contexts in Part I of the Table, for “Part III of the Finance Act 1965”,
  - (b) in the contexts in Part II of the Table, for “Part III of the Finance Act 1965”, together with the words “(chargeable gains)” or “(capital gains)” or “(capital gains tax)” or “(tax on chargeable gains)” as the case may be.

**TABLE**

**PART I**

1 In the Taxes Management Act 1970 (c. 9)

2 In the Income and Corporation Taxes Act 1970 (c. 10)

**Textual Amendments**

**F290** Entry repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 844** and Sch. 31

3 In the Finance Act 1970 (c. 24)

**Textual Amendments**

**F291** Entry repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 844** and Sch. 31

**F292**

4

**Textual Amendments**

**F292** [Sch. 7 para. 8 Table Pt. I item 4](#) repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 844** and Sch. 31

5 In the Finance Act 1973 (c. 51)

[<sup>F293</sup>6 In the Finance Act 1974 (c. 30)]

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

#### Textual Amendments

**F293** Sch. 7 para. 8 Table Pt. I item 6 repealed by Finance Act 1985 (c. 54), s. 98(6) and Sch. 27 Pt. X in relation to disposals of interests in land taking place on or after 19 March 1985 but without affecting the construction of Capital Gains Tax Act 1979 (c. 14), Sch. 5 para. 9

F294

7

#### Textual Amendments

**F294** Sch. 7 para. 8 Table Pt. I item 7 repealed by Inheritance Tax Act 1984 (c. 51), ss. 274, 277, Schs. 7, 9

F295

8

#### Textual Amendments

**F295** Sch. 7 para. 8 Table Pt. I item 8 repealed by Finance Act 1985 (c. 54), s. 98(6) and Sch. 27 Pt. X

9 In the Finance Act 1976 (c. 40)

#### Textual Amendments

**F296** Entry repealed by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 844 and Sch. 31

10 In the Finance Act 1977 (c. 36)

#### Textual Amendments

**F297** Entry repealed by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 844 and Sch. 31

## PART II

### REFERENCES TO PART III OF FINANCE ACT 1965 FOLLOWED BY DESCRIPTIVE WORDS

1 Section 74(2) of the Post Office Act 1969 (c. 48).

2 Section 27(1) of the Taxes Management Act 1970 (c. 9).

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

F298

3

**Textual Amendments**

**F298** Sch. 7 para. 8 Table Pt. II item 3 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844 and Sch. 31

4 In the Finance Act 1970 (c. 24)

5 Paragraph 15 of Schedule 9 to the Finance Act 1974 (c. 30).

F299

6

**Textual Amendments**

**F299** Sch. 7 para. 8 Table Pt. II item 6 repealed by [Finance Act 1985 \(c. 54\)](#), s. 98(6) and Sch. 27 Pt. X

*Translation of references to enactments repealed and re-enacted*

9 In the enactments specified in column 1 of the following Table for the words in column 2 substitute the words in column 3, adding, except as otherwise indicated, “of the Capital Gains Tax Act 1979” (but in all cases saying “to” instead of “of” if the substituted words refer to a Schedule rather than a section).

TABLE

<b>Enactment amended</b>	<b>Words to be replaced</b>	<b>Corresponding provision of this Act</b>
Taxes Management Act 1970 (c. 9)		
In the Taxes Management Act 1970		
section		
12(2)(b)	section 30(6).	section 128(6) (without adding more words).
25(9)	subsections (1) and (8) of section 45 of the Finance Act 1965.	sections 64, 93 and 155(1).
28(2)	section 45(1) of the Finance Act 1965.	section 51.



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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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	subsections (1) and (8) of that section.	sections 64, 93 and 155(1) of that Act (without adding more words).
Income and Corporation Taxes Act 1970 (c. 10)		
In the Income and Corporation Taxes Act 1970		
section		
...	...	...
F300	F300	F300
...	...	...
F300	F300	F300
...	...	...
F300	F300	F300
...	...	...
F300	F300	F300
267(1)	Part II of Schedule 6 to the Finance Act 1965.	Schedule 5.
267(3)	subsection (1) or subsection (2) of section 38 of the Finance Act 1965.	section 96 or 97.
267(3A)	Subsections (4) to (7) of section 40 of the Finance Act 1977.	Subsections (2) to (5) of section 88.
	subsection (3)(b).	subsection (1) (without adding more words).
269(1)(a)	paragraph 4 of Schedule 6 to the Finance Act 1965.	section 32.
269(1)	paragraph 4.	section 32 (without adding more words).
270(4)(a)	section 41 of the Finance Act 1969.	section 67.
270(5)(b)	section 41 of the Finance Act 1969.	section 67.
273(2)	Schedule 7 to the Finance Act 1965.	section 72.
	paragraph 3 of that Schedule.	that section (without adding more words).
274(1) and (2)	paragraph 1 of Schedule 7 to the Finance Act 1965.	section 122.



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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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Schedule 3 paragraph 8(1)	Part II of Schedule 6.	Schedule 5 (without adding more words).
...	...	...
F301	F301	F301
...	...	...
F301	F301	F301
...	...	...
F300	F300	F300
...	...	...
F300	F300	F300
...	...	...
F302	F302	F302
...	...	...
F303	F303	F303
Finance (No. 2) Act 1975 (c. 45)		
In the Finance (No. 2) Act 1975		
section		
...	...	...
F300	F300	F300
58(8)	paragraph 4 of Schedule 6 to the Finance Act 1965.	section 32.
	sub-paragraph (1)(c) of that paragraph.	subsection (1)(c) of that section (without adding more words).
	sub-paragraph (1)(a) and (b) of that paragraph.	subsection (1)(a) and (b) of that section (without adding more words).
58(9)	sub-paragraph (1) of paragraph 6 of Schedule 10 to the Finance Act 1971.	section 66(1).
	sub-paragraph (2) of that paragraph.	subsection (2) of the said section 66 (without adding more words).
	under sub-paragraph (1).	under subsection (1) (without adding more words).
58(12)	paragraph 5 of Schedule 7 to the Finance Act 1965.	section 82.
	...	...
	F304	F304

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

...	...	...
F300	F300	F300
...	...	...
F305	F305	F305
Finance Act 1976 (c. 40)		
In the Finance Act 1976		
section		
54(3)(a)	section 53(3) above.	section 84(3).
54(3)(b)	section 33 of the Finance Act 1965.	sections 115 to 121.
	that section.	section 118 of that Act (without adding more words).
...	...	...
F300	F300	F300
...	...	...
F300	F300	F300
...	...	...
F303	F303	F303
Finance Act 1977 (c. 36)		
In the Finance Act 1977		
section		
41(1)	(see amendment in this Table of section 267(3A) of the Income and Corporation Taxes Act 1970).	
46(2)(a)	paragraph 4, 5, 6 or 7 of Schedule 7 to the Finance Act 1965.	sections 77 to 86.
46(2)(b)	section 53 of the Finance Act 1976.	section 84 of that Act (without adding more words).
46(6)	paragraph 5 of Schedule 7 to the said Act of 1965.	section 82.
	the words from “section 45(8)” to “Finance Act 1971”.	section 86(7), 93 or 139 of that Act (without adding more words).
46(7)	paragraph 6 or 7 of Schedule 7 to the said Act of 1965.	section 85 or 86.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

	section 40(2) above.	section 87(1) of that Act (without adding more words).
... F301	... F301	... F301
... F306	... F306	... F306

**Textual Amendments**

**F300** Entry repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 844** and Sch. 31

**F301** Entries repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **s. 844** and Sch. 31

**F302** Entries repealed by [Finance Act 1985 \(c. 54\)](#), **s. 98(6)** and Sch. 27 Pt. X in relation to disposals of interests in land taking place on or after 19 March 1985 but without affecting the construction of [Capital Gains Tax Act 1979 \(c. 14\)](#), **Sch. 5 para. 9**

**F303** Entries repealed by [Inheritance Tax Act 1984 \(c. 51\)](#), ss. 274, 277, Schs. 7, 9

**F304** Entry repealed by [Finance Act 1985 \(c. 54\)](#), **s. 98(6)** and Sch. 27 Pt. VII with respect to disposals on or after 2 July 1986

**F305** Entries repealed by [Finance Act 1985 \(c. 54\)](#), **s. 98(6)** and Sch. 27 Pt. X

**F306** Entry repealed by [Inheritance Tax Act 1984 \(c. 51\)](#), ss. 274, 277, Schs. 7, 9

SCHEDULE 8

Section 158.

REPEALS

**Modifications etc. (not altering text)**

**C262** Part of the text of Sch. 7 paras. 1(2), 2(2)(3), 3, 4, 7 and Sch. 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Chapter	Short title	Extent of repeal
1965 c. 25.	Finance Act 1965.	Part III, except section 45(12). Section 94. Schedules 6 to 9. Schedule 10, except paragraph 15.
1966 c. 18.	Finance Act 1966.	Section 43. Schedule 10.
1967 c. 54.	Finance Act 1967.	Section 32. Section 35.

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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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		Section 37.
		Section 45(3)(h).
		Schedule 13.
1968 c. 44.	Finance Act 1968.	Section 32.
		Section 34.
		Section 61(5).
		Schedules 11 and 12.
1969 c. 32.	Finance Act 1969.	Sections 41 and 42.
		Section 61(3)(e).
		Schedules 18 and 19.
1970 c. 9.	Taxes Management Act 1970.	Section 47(4).
		In section 57(3)(c) the words “or under any provision in the Finance Act 1965”.
1970 c. 10.	Income and Corporation Taxes Act 1970.	In Schedule 15—
		paragraphs 6 and 7;
		in Part I of the Table in paragraph 11 the entries amending the Finance Act 1965;
		in Part II of that Table the entries amending—
		the Finance Act 1965 (except section 93),
		the Finance Act 1967,
		the Finance Act 1968,
		Schedules 18 and 19 to the Finance Act 1969;
		paragraph 12(1).
1970 c. 24.	Finance Act 1970.	In section 28(1) the words from “section 41” to “1969 and of”.
1971 c. 68.	Finance Act 1971.	Section 55, except subsection (5).
		Section 56.
		Sections 58 to 60.
		In section 69(3) the words from “Part IV” to the end of the subsection.

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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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		In Schedule 3 paragraph 10.
		In Schedule 6 paragraph 91.
		In Schedule 8 paragraph 16(1).
		Schedule 9, except paragraph 4.
		Schedule 10.
		Schedule 12.
1972 c. 41.	Finance Act 1972.	Sections 112 to 119.
		In section 124(2) the words “or gains” before paragraph (a), and in paragraph (a) the words “or gains” (in three places) and the words “or section 40(1) of the Finance Act 1965.”.
		Section 134(3)(c).
		In Schedule 24 paragraphs 1 and 2.
1973 c. 51.	Finance Act 1973.	Section 37.
		Section 51.
		In section 54(1) the words “capital gains tax”.
		In Schedule 16 paragraph 15.
		Schedule 20.
		In Schedule 21 paragraph 4.
1974 c. 30.	Finance Act 1974.	Section 8(8).
		Sections 31 to 33.
		Section 48.
		In section 57(3)(b) the words from “and so far” to the end of the paragraph.
		In Schedule 8 paragraph 6.
1975 c. 7.	Finance Act 1975.	Section 53.
		In Schedule 12 paragraphs 12, 13 and 17.
1975 c. 45.	Finance (No. 2) Act 1975.	Section 44(4).
		Section 57.
		Sections 59 to 64.

*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

1976 c. 40.	Finance Act 1976.	In section 75(3)(c) the words from “and so far” to the end of the paragraph. In Schedule 8 paragraph 5. Sections 52 and 53. Sections 55 and 56. In Schedule 11 paragraphs 1 and 6.
1977 c. 36.	Finance Act 1977.	Section 40. Section 43. In section 59(3)(c) the words from “and, so far” to the end of the paragraph.
1978 c. 42.	Finance Act 1978.	Section 44. In section 45 subsections (1) to (4), and in subsection (6) the words from “and subsections (2)” to the end of the sub-section. Sections 46 to 52. In section 80(3)(c) the words from “and so far” to the end of the paragraph. Schedules 7 and 8. In Schedule 11 paragraph 2.

<b>Serial No.</b>	<b>Title</b>	<b>Extent of repeal</b>
S.I. 1970/173.	Capital Gains Tax (Exempt Gilt-edged Securities) Order 1970.	The whole order.
S.I. 1970/1741.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 2) Order 1970.	The whole order.
S.I. 1971/793.	Capital Gains Tax (Exempt Gilt-edged Securities) Order 1971.	The whole order.
S.I. 1971/1366.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 2) Order 1971.	The whole order.
S.I. 1971/1786.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 3) Order 1971.	The whole order.



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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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S.I. 1972/244.	Capital Gains Tax (Exempt Gilt-edged Securities) Order 1972.	The whole order.
S.I. 1972/1015.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 2) Order 1972.	The whole order.
S.I. 1973/241.	Capital Gains Tax (Exempt Gilt-edged Securities) Order 1973.	The whole order.
S.I. 1973/716.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 2) Order 1973.	The whole order.
S.I. 1973/1769.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 3) Order 1973.	The whole order.
S.I. 1974/693.	Capital Gains Tax (Exempt Gilt-edged Securities) Order 1974.	The whole order.
S.I. 1974/1071.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 2) Order 1974.	The whole order.
S.I. 1974/1907.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 3) Order 1974.	The whole order.
S.I. 1975/354.	Capital Gains Tax (Exempt Gilt-edged Securities) Order 1975.	The whole order.
S.I. 1975/1129.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 2) Order 1975.	The whole order.
S.I. 1975/1757.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 3) Order 1975.	The whole order.
S.I. 1976/698.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 1) Order 1976.	The whole order.
S.I. 1976/1859.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 2) Order 1976.	The whole order.
S.I. 1977/347.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 1) Order 1977.	The whole order.
S.I. 1977/919.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 2) Order 1977.	The whole order.

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*Status: Point in time view as at 25/07/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992). (See end of Document for details)*

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S.I. 1977/1136.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 3) Order 1977.	The whole order.
S.I. 1977/1614.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 4) Order 1977.	The whole order.
S.I. 1978/141.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 1) Order 1978.	The whole order.
S.I. 1978/1312.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 2) Order 1978.	The whole order.
S.I. 1978/1838.	Capital Gains Tax (Exempt Gilt-edged Securities) (No. 3) Order 1978.	The whole order.

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**Status:**

Point in time view as at 25/07/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Capital Gains Tax Act 1979 (repealed 6.3.1992).