



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART II

GENERAL PROVISIONS RELATING TO COMPUTATION OF GAINS AND ACQUISITIONS AND DISPOSALS OF ASSETS

CHAPTER II

ASSETS AND DISPOSALS OF ASSETS

General provisions

21 Assets and disposals.

- (1) All forms of property shall be assets for the purposes of this Act, whether situated in the United Kingdom or not, including—
 - (a) options, debts and incorporeal property generally, and
 - (b) any currency other than sterling, and
 - (c) 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—
 - (a) references to a disposal of an asset include, except where the context otherwise requires, references to a part disposal of an asset, and
 - (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.

Status: Point in time view as at 10/07/2003.

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Modifications etc. (not altering text)

C1 S. 21(2) applied (8.11.1995) by [Atomic Energy Authority Act 1995 \(c. 37\)](#), [Sch. 3 para. 4\(2\)](#)

22 Disposal where capital sums derived from assets.

- (1) Subject to sections 23 and 26(1), 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 of the gain.

Modifications etc. (not altering text)

C2 S. 22 excluded (27.7.1993) by [1993 c. 37, s. 12](#), [Sch. 2 Pt. I para.17](#)

23 Receipt of compensation and insurance money not treated as a disposal.

- (1) If the recipient so claims, receipt of a capital sum within paragraph (a), (b), (c) or (d) of section 22(1) 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 of the gain shall be deducted from any expenditure allowable under Chapter III of this Part 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

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- (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 38(1).

- (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 22(1) 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 III of this Part 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.
- (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.
- ^{F1}(6) If a building (“the old building”) is destroyed or irreparably damaged, and all or part of a capital sum received by way of compensation for the destruction or damage, or under a policy of insurance of the risk of the destruction or damage, is applied by the recipient in constructing or otherwise acquiring a replacement building situated on other land (“the new building”), then for the purposes of subsections (4) and (5) above each of the old building and the new building shall be regarded as an asset separate from the land on which it is or was situated and the old building shall be treated as lost or destroyed.

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- (7) For the purposes of subsection (6) above:
- (a) references to a building include references to any permanent or semi-permanent structure in the nature of a building; and
 - (b) the reference to a sum applied in acquiring the new building does not include a reference to a sum applied in acquiring the land on which the new building is situated; and
 - (c) all necessary apportionments shall be made of any expenditure, compensation or consideration, and the method of apportionment shall be such as is just and reasonable.
- (8) This section shall apply in relation to a wasting asset with the following modifications:
- (a) paragraphs (b) and (c) of subsection (1) above, and subsection (2) above, shall not apply; and
 - (b) in subsections (1) and (3) above, the amount of the expenditure from which the deduction is to be made shall be the amount which would have been allowable under Chapter III of this Part if the asset had been disposed of immediately after the application of the capital sum.]

Textual Amendments

- F1** S. 23(6)(7)(8) substituted for s. 23(6) (with effect in accordance with Sch. 39 para. 3(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 39 para. 3\(2\)](#)

Modifications etc. (not altering text)

- C3** S. 23(4) modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 3\(1\)\(3\)](#)
- C4** S. 23(4) modified (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 3\(1\)-\(3\)](#) (with [Sch. 4 para. 14](#)); S.I. 1994/2189, art. 2, Sch.
- C5** S. 23(4)(5) modified (24.7.1996) by [Broadcasting Act 1996 \(c. 55\)](#), s. 149(1), [Sch. 7 para. 10\(1\)\(3\)](#) (with [Sch. 7 para. 9\(1\)](#))
- C6** S. 23(5) modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 3\(2\)\(3\)](#)
- C7** S. 23(5) modified (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 3\(1\)-\(3\)](#) (with [Sch. 4 para. 14](#)); S.I. 1994/2189, art. 2, Sch.

24 Disposals where assets lost or destroyed, or become of negligible value.

- (1) Subject to the provisions of this Act and, in particular to section 144, 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.
- [^{F2}(2) Where the owner of an asset which has become of negligible value makes a claim to that effect:
- (a) this Act shall apply as if the claimant had sold, and immediately reacquired, the asset at the time of the claim or (subject to paragraphs (b) and (c) below) at any earlier time specified in the claim, for a consideration of an amount equal to the value specified in the claim.
 - (b) An earlier time may be specified in the claim if:

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- (i) the claimant owned the asset at the earlier time; and
 - (ii) the asset had become of negligible value at the earlier time; and either
 - (iii) for capital gains tax purposes the earlier time is not more than two years before the beginning of the year of assessment in which the claim is made; or
 - (iv) for corporation tax purposes the earlier time is on or after the first day of the earliest accounting period ending not more than two years before the time of the claim.
- (c) Section 93 of and Schedule 12 to the Finance Act 1994 (indexation losses and transitional relief) shall have effect in relation to an asset to which this section applies as if the sale and reacquisition occurred at the time of the claim and not at any earlier time.]
- (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 reacquired, 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.

Textual Amendments

- F2** S. 24(2) substituted (with effect in accordance with Sch. 39 para. 4(2) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 39 para. 4\(1\)](#)

25 Non-residents: deemed disposals.

- (1) Where an asset ceases by virtue of becoming situated outside the United Kingdom to be a chargeable asset in relation to a person, he shall be deemed for all purposes of this Act—
- (a) to have disposed of the asset immediately before the time when it became situated outside the United Kingdom, and
 - (b) immediately to have reacquired it,
- at its market value at that time.
- (2) Subsection (1) above does not apply—
- (a) where the asset becomes situated outside the United Kingdom contemporaneously with the person there mentioned ceasing to carry on a trade in the United Kingdom through a branch or agency, or
 - (b) where the asset is an exploration or exploitation asset.
- (3) Where an asset ceases to be a chargeable asset in relation to a person by virtue of his ceasing to carry on a trade in the United Kingdom through a branch or agency, he shall be deemed for all purposes of this Act—
- (a) to have disposed of the asset immediately before the time when he ceased to carry on the trade in the United Kingdom through a branch or agency, and
 - (b) immediately to have reacquired it,
- at its market value at that time.

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[^{F3}(3A) Subsection (3) above shall not apply if—

- (a) the person ceasing to carry on the trade is a company, and
- (b) the trade is transferred to another company in circumstances in which section 139 or 171 applies in relation to the assets transferred.]

^{F4}(4)

(5) Subsection (3) above does not apply to an asset which is a chargeable asset in relation to the person there mentioned at any time after he ceases to carry on the trade in the United Kingdom through a branch or agency and before the end of the chargeable period in which he does so.

(6) In this section—

“exploration or exploitation asset” means an asset used in connection with exploration or exploitation activities carried on in the United Kingdom or a designated area, and

“designated area” and “exploration or exploitation activities” have the same meanings as in section 276.

(7) For the purposes of this section an asset is at any time a chargeable asset in relation to a person if, were it to be disposed of at that time, any chargeable gains accruing to him on the disposal—

- (a) would be gains in respect of which he would be chargeable to capital gains tax under section 10(1), or
- (b) would form part of his chargeable profits for corporation tax purposes by virtue of section [^{F5}10B].

(8) This section shall apply as if references to a trade included references to a profession or vocation.

Textual Amendments

F3 S. 25(3A) inserted (with effect in accordance with Sch. 29 para. 6(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 6\(2\)](#) (with Sch. 29 para. 46(5))

F4 S. 25(4) repealed (with effect in accordance with Sch. 29 para. 6(5), Sch. 40 Pt. 2(12) Note 3 of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 6\(3\)](#), [Sch. 40 Pt. II\(12\)](#) (with Sch. 29 para. 46(5))

F5 Word in s. 25(7)(b) substituted (with effect in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 27 para. 2\(3\)](#)

Modifications etc. (not altering text)

C8 S. 25(2)(3)(5) modified (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 153\(2\)\(b\)](#)

26 Mortgages and charges not to be treated as disposals.

(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.

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- (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.

27 Disposals in cases of hire-purchase and similar transactions.

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.

28 Time of disposal and acquisition where asset disposed of under contract.

- (1) Subject to section 22(2), and subsection (2) below, 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).
- (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)

- C9** S. 28 extended (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 2\(2\)](#) (with [Sch. 4 para. 14](#)); [S.I. 1994/2189](#), art. 2, Sch.
- C10** S. 28 applied (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 24\(9\)](#) (with [Sch. 4 para. 14](#)); [S.I. 1994/2189](#), art. 2, Sch.

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