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# 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 III

COMPUTATION OF GAINS: GENERAL PROVISIONS

*Re-basing to 1982, and assets held on 6th April 1965*

#### **35 Assets held on 31st March 1982 (including assets held on 6th April 1965).**

- (1) This section applies to a disposal of an asset which was held on 31st March 1982 by the person making the disposal.
- (2) Subject to the following provisions of this section, in computing for the purpose of this Act the gain or loss accruing on the disposal it shall be assumed that the asset was on 31st March 1982 sold by the person making the disposal, and immediately reacquired by him, at its market value on that date.
- (3) Subject to subsection (5) below, subsection (2) above shall not apply to a disposal—
  - (a) where a gain would accrue on the disposal to the person making the disposal if that subsection did apply, and either a smaller gain or a loss would so accrue if it did not,
  - (b) where a loss would so accrue if that subsection did apply, and either a smaller loss or a gain would accrue if it did not,
  - (c) where, either on the facts of the case or by virtue of Schedule 2, neither a gain nor a loss would accrue if that subsection did not apply, or
  - (d) where neither a gain nor a loss would accrue by virtue of any of—

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- (i) sections 58, 73, 139, [<sup>F1</sup>140A,][<sup>F2</sup>140E,] 171, [<sup>F3</sup>211,]<sup>F4</sup>... 215, 216, [<sup>F5</sup>217A,] 218 to 221, 257(3), 258(4), 264 and 267(2) of this Act;
- (ii) section 148 of the 1979 Act;
- (iii) section 148 of the <sup>M1</sup>Finance Act 1982;
- (iv) paragraph 2 of Schedule 2 to the <sup>M2</sup>Trustee Savings Banks Act 1985;
- (v) section 130(3) of the <sup>M3</sup>Transport Act 1985;
- (vi) section 486(8) of the Taxes Act; <sup>F6</sup> . . .
- (vii) paragraph 2(1) of Schedule 12 to the <sup>M4</sup>Finance Act 1990 <sup>F7</sup>[<sup>F8</sup>...]
- (viii) paragraph 5(3) of Schedule 17 to the Finance (No. 2) Act 1992]
- [<sup>F9</sup>(ix) paragraphs 2(1), 7(2), 11(3) and (4) and 25(2) of Schedule 24 to the Finance Act 1994;]
- [<sup>F10</sup>(x) paragraph 4(2) of Schedule 25 to the Finance Act 1994;]
- [<sup>F11</sup>(xi) paragraph 2(1) of Schedule 4 to the Coal Industry Act 1994;]
- [<sup>F12</sup>(xii) paragraph 2(1) of Schedule 7 to the Broadcasting Act 1996;]
- [<sup>F13</sup>(xiii) paragraph 2(1) of Schedule 7 to the Transport Act 2000;]
- [<sup>F14</sup>(xiv) paragraphs 3 and 9 of Schedule 26 to the Transport Act 2000;]
- [<sup>F15</sup>(xv) paragraph 3, 18, 29 or 32 of Schedule 9 to the Energy Act 2004.]
- [<sup>F16</sup>(xvi) paragraph 5 or 16 of Schedule 10 to the Railways Act 2005.]
- [<sup>F17</sup>(xvii) paragraph 9 of Schedule 4 to the Consumers, Estate Agents and Redress Act 2007.]

[<sup>F16</sup>(4) Where in the case of a disposal of an asset—

- (a) the effect of subsection (2) above would be to substitute a loss for a gain or a gain for a loss, but
- (b) the application of subsection (2) is excluded by subsection (3),

it shall be assumed in relation to the disposal that the asset was acquired by the person making the disposal for a consideration such that, on the disposal, neither a gain nor a loss accrues to him.

(5) If a person so elects, disposals made by him (including any made by him before the election) shall fall outside subsection (3) above (so that subsection (2) above is not excluded by that subsection).

(6) An election by a person under subsection (5) above shall be irrevocable and shall be made by notice to [<sup>F18</sup>an officer of the Board] at any time before 6th April 1990 or at any time during the period beginning with the day of the first relevant disposal and ending—

- [<sup>F19</sup>(a) in the case of an election for the purposes of capital gains tax, with the first anniversary of the 31st January next following the year of assessment in which the disposal is made;
- (aa) in the case of an election for the purposes of corporation tax, 2 years after the end of the accounting period in which the disposal is made; or
- (b) in either case, at such later time as the Board may allow;]

and “the first relevant disposal” means the first disposal to which this section applies which is made by the person making the election.

(7) An election made by a person under subsection (5) above in one capacity does not cover disposals made by him in another capacity.

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- (8) All such adjustments shall be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under subsection (5) above.
- (9) Schedule 2 shall have effect in relation to disposals of assets owned on 6th April 1965 in cases where neither subsection (2) nor subsection (4) above applies.
- (10) Schedule 3, which contains provisions supplementary to subsections (1) to (8) above, shall have effect.]

### Textual Amendments

- F1** Words in s. 35(3)(d)(i) inserted (*retrosp.*) by 1992 c. 48, **s. 46(1)(2)**
- F2** Word in s. 35(3)(d)(i) inserted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), **s. 59(2)**
- F3** Word in s. 35(3)(d) inserted (with effect in accordance with Sch. 9 para. 17(1) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 14(3)**
- F4** Word in s. 35(3)(d)(i) repealed (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 40 Pt. II(12)**
- F5** Words in s. 35(3)(d)(i) inserted (19.2.1993) by 1992 c. 48, s. 56, **Sch. 9 para. 21(2)**; S.I. 1993/236, **art.2**
- F6** Words in s. 35(3)(d)(vi) repealed (*retrosp.*) by 1992 c. 48, ss. 77, 82, Sch. 17 paras. 5(9), 7, **Sch. 18 Pt. X**
- F7** Word in s. 35(3)(d)(vii) repealed (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 2(2)**, **Sch. 26 Pt. VIII(2)**
- F8** Words in s. 35(3)(d) inserted (*retrosp.*) by 1992 c. 48, s. 77, Sch. 17 paras. 5(9), 7
- F9** S. 35(3)(d)(ix) inserted (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 2(2)**
- F10** S. 35(3)(d)(x) inserted (with effect as specified in Sch. 25 para. 4(1) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 25 para. 4(3)**
- F11** S. 35(3)(d)(xi) inserted (19.9.1994) by Coal industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 2(3)** (with **Sch. 4 para. 14**); S.I. 1994/2189, art. 2, Sch.
- F12** S. 35(3)(d)(xii) inserted (24.7.1996) by Broadcasting Act 1996 (c. 55), s. 149(1), **Sch. 7 para. 3** (with **Sch. 7 para. 9(1)**)
- F13** S. 35(3)(d)(xiii) inserted (1.2.2001) by Transport Act 2000 (c. 38), s. 275(1), **Sch. 7 para. 2(3)**; S.I. 2001/57, art. 3(1)
- F14** S. 35(3)(d)(xiv) inserted (15.1.2001) by Transport Act 2000 (c. 38), s. 275(1), **Sch. 26 para. 37**; S.I. 2000/3376, art. 2
- F15** S. 35(3)(d)(xv) inserted (5.10.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 9 para. 36** (with s. 38(2)); S.I. 2004/2575, art. 2(1), Sch. 1
- F16** S. 35(3)(d)(xvi) inserted (E.W.S.) (8.6.2005 for specified purposes, 24.7.2005 in so far as not already in force) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 10 para. 33**; S.I. 2005/1444, art. 2(1), Sch. 1; S.I. 2005/1909, art. 2, Sch.
- F17** S. 35(3)(d)(xvii) inserted (21.12.2007) by Consumers, Estate Agents and Redress Act 2007 (c. 17), s. 66(2), **Sch. 7 para. 11**; S.I. 2007/3546, art. 3, Sch.
- F18** Words in s. 35(6) substituted (with effect in accordance with s. 135(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 21 para. 35(a)**
- F19** S. 35(6)(a)(aa)(b) substituted for s. 35(6)(a)(b) (with effect in accordance with s. 135(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 21 para. 35(b)**

### Marginal Citations

- M1** 1982 c. 39.
- M2** 1985 c. 50.
- M3** 1985 c. 67.

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**M4** [1990 c. 29.](#)

### **36 Deferred charges on gains before 31st March 1982.**

Schedule 4, which provides for the reduction of a deferred charge to tax where the charge is wholly or partly attributable to an increase in the value of an asset before 31st March 1982, shall have effect.

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