



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART V

TRANSFER OF BUSINESS ASSETS

CHAPTER I

GENERAL PROVISIONS

Replacement of business assets

152 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 (“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 (“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 155, 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.

Status: Point in time view as at 31/12/1995.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Chapter I is up to date with all changes known to be in force on or before 06 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Where subsection (1)(a) above applies to exclude a gain which, in consequence of Schedule 2, 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) Subject to subsection (4) below, 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 12 months before and ending 3 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 allow.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) This section shall apply in relation to a person who, either successively or at the same time, carries on 2 or more trades as if both or all of them were a single trade.
- (9) In this section “period of ownership” does not include any period before 31st March 1982.
- (10) 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.
- (11) Without prejudice to section 52(4), 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.

Modifications etc. (not altering text)

- C1** Ss. 152-156 modified (16.7.1992) by [1992 c. 48, s. 77, Sch. 17 paras.3, 7](#)
 Ss. 152-156 modified (27.7.1993) by [1993 c. 37, s. 12, Sch. 2 Pt. I para. 6\(2\)](#)

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- C2** Ss. 152-160 modified (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 6(1)**
- C3** S. 152 restricted (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 6(3)**
- C4** Ss. 152-154 modified (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 6(4)**
- C5** Ss. 152-156 modified (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 25 para. 3(2)**
- C6** S. 152 modified (19.9.1994) by Coal industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 7(1)(a)** (with Sch. 4 para. 14); S.I. 1994/2189, art. 2, Sch.
- C7** S. 152 restricted (19.9.1994) by Coal industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 7(2)(a)** (with Sch. 4 para. 14); S.I. 1994/2189, art. 2, Sch.
- C8** S. 152 applied (with modifications) (19.9.1994) by Coal industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 7(3)** (with Sch. 4 para. 14); S.I. 1994/2189, art. 2, Sch.

153 Assets only partly replaced.

(1) Section 152(1) 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 (11) of 152 shall apply as if this section formed part of that section.

Modifications etc. (not altering text)

- C2** Ss. 152-160 modified (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 6(1)**
- C4** Ss. 152-154 modified (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 6(4)**
- C5** Ss. 152-156 modified (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 25 para. 3(2)**
- C9** Ss. 152-156 modified (16.7.1992) by 1992 c. 48, s. 77, Sch. 17 paras.3, 7
Ss. 152-156 modified (27.7.1993) by 1993 c. 37, s. 12, **Sch. 2 Pt. I para. 6(2)**
- C10** S. 153 restricted (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), **Sch. 24 para. 6(3)**
- C11** S. 153 restricted (19.9.1994) by Coal industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 7(2)(a)** (with Sch. 4 para. 14); S.I. 1994/2189, art. 2, Sch.
- C12** S. 153 applied (with modifications) (19.9.1994) by Coal industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 7(3)** (with Sch. 4 para. 14); S.I. 1994/2189, art. 2, Sch.

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154 New assets which are depreciating assets.

- (1) Sections 152, 153 and 229 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 (“asset No.1”) is reduced, with a corresponding reduction of the expenditure allowable in respect of another asset (“asset No.2”), and
 - (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
 - (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 10 years beginning with the acquisition of asset No.2,
- whichever event comes first.
- (3) Where section 229 has effect subject to the provisions of this section, subsection (2) (b) above shall have effect as if it read—
- “(b) section 232(3) applies as regards asset No.2 (whether or not by virtue of section 232(5)), or”.
- (4) If, in the circumstances specified in subsection (5) below, the claimant acquires an asset (“asset No.3”) which is not a depreciating asset, and claims under section 152 or 153—
- (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).
- (5) 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 152(3),
- the whole amount of the postponed gain could be carried forward from asset No.1 to asset No.3; and the claim under subsection (4) above shall be accepted as if those assumptions were true.
- (6) 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 2 separate assets, so that, on that claim—
- (a) subsection (4) above applies to the first-mentioned part, and
 - (b) the other part remains subject to subsection (2) above.
- (7) 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 44, or
 - (b) within the period of 10 years beginning at that time it will become a wasting asset (so defined).

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Modifications etc. (not altering text)

- C2** Ss. 152-160 modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 6\(1\)](#)
- C4** Ss. 152-154 modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 6\(4\)](#)
- C5** Ss. 152-156 modified (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 25 para. 3\(2\)](#)
- C13** Ss. 152-156 modified (16.7.1992) by [1992 c. 48](#), s. 77, [Sch. 17 paras.3, 7](#)
Ss. 152-156 modified (27.7.1993) by [1993 c. 37](#), s. 12, [Sch. 2 Pt. I para. 6\(2\)](#)
- C14** S. 154 applied (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 6\(5\)](#)
- C15** S. 154 modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 6\(2\)](#)
- C16** S. 154 restricted (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 7\(2\)\(b\)](#) (with [Sch. 4 para. 14](#)); [S.I. 1994/2189](#), art. 2, Sch.
- C17** S. 154 applied (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 7\(6\)](#) (with [Sch. 4 para. 14](#)); [S.I. 1994/2189](#), art. 2, Sch.

155 Relevant classes of assets.

The classes of assets for the purposes of section 152(1) 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 156.

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 ^{M1}Hovercraft Act 1968).

CLASS 3

Satellites, space stations and spacecraft (including launch vehicles).

CLASS 4

Goodwill.

CLASS 5

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).

[^{F1}CLASS 6

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Ewe and suckler cow premium quotas (that is, rights in respect of any ewes or suckler cows to receive payments by way of any subsidy entitlement to which is determined by reference to limits contained in a Community instrument).]

Textual Amendments

F1 Words in s. 155 inserted (27.7.1993 with effect as mentioned in s. 86(4)) by 1993 c. 34, s. 86(1)(4)

Modifications etc. (not altering text)

C2 Ss. 152-160 modified (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), Sch. 24 para. 6(1)

C5 Ss. 152-156 modified (3.5.1994) by Finance Act 1994 (c. 9), Sch. 25 para. 3(2)

C18 Ss. 152-156 modified (16.7.1992) by 1992 c. 48, s. 77, Sch. 17 paras. 3, 7

Ss. 152-156 modified (27.7.1993) by 1993 c. 37, s. 12, Sch. 2 Pt. I para. 6(2)

Marginal Citations

M1 1968 c.59.

156 Assets of Class 1.

- (1) This section has effect as respects head A of Class 1 in section 155.
- (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) above 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 98(2) of the Taxes Act (income tax and corporation tax on tied premises).

Modifications etc. (not altering text)

C2 Ss. 152-160 modified (retrospective to 11.1.1994) by Finance Act 1994 (c. 9), s. 252(3), Sch. 24 para. 6(1)

C5 Ss. 152-156 modified (3.5.1994) by Finance Act 1994 (c. 9), Sch. 25 para. 3(2)

C19 Ss. 152-156 modified (16.7.1992) by 1992 c. 48, s. 77, Sch. 17 paras.3, 7

Ss. 152-156 modified (27.7.1993) by 1993 c. 37, s. 12, Sch. 2 Pt. I para. 6(2)

157 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

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- (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 [^{F2}personal company], within the meaning of Schedule 6,
any reference in sections 152 to 156 to the person carrying on the trade (or the 2 or more trades) includes a reference to that individual.

Textual Amendments

- F2** Words in s. 157 substituted (27.7.1993 with effect in relation to any disposal made on or after 16.3.1993 as mentioned in s. 87(2)) by [1993 c. 34, s. 87, Sch. 7 Pt. I para. 1\(1\)](#)

Modifications etc. (not altering text)

- C2** Ss. 152-160 modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\), s. 252\(3\), Sch. 24 para. 6\(1\)](#)

158 Activities other than trades, and interpretation.

- (1) Sections 152 to 157 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 152 to 157 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 152 to 157 and this section shall be construed as one.

Modifications etc. (not altering text)

- C2** Ss. 152-160 modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\), s. 252\(3\), Sch. 24 para. 6\(1\)](#)
- C20** S. 158 applied (19.9.1994) by [Coal industry Act 1994 \(c. 21\), s. 68\(4\), Sch. 4 para. 7\(7\)](#) (with [Sch. 4 para. 14](#)); [S.I. 1994/2189](#), art. 2, Sch.

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159 Non-residents: roll-over relief.

- (1) Section 152 shall not apply in the case of a person if the old assets are chargeable assets in relation to him at the time they are disposed of, unless the new assets are chargeable assets in relation to him immediately after the time they are acquired.
- (2) Subsection (1) above shall not apply where—
 - (a) the person acquires the new assets after he has disposed of the old assets, and
 - (b) immediately after the time they are acquired the person is resident or ordinarily resident in the United Kingdom.
- (3) Subsection (2) above shall not apply where immediately after the time the new assets are acquired—
 - (a) the person is a dual resident, and
 - (b) the new assets are prescribed assets.
- (4) 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 10(3).
- (5) In this section—

“dual resident” means a person who is resident or ordinarily resident in the United Kingdom and falls to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom; and

“prescribed asset”, in relation to a dual resident, means an asset in respect of which, by virtue of the asset being of a description specified in any double taxation relief arrangements, he falls to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to him on a disposal.
- (6) In this section—
 - (a) “the old assets” and “the new assets” have the same meanings as in section 152,
 - (b) references to disposal of the old assets include references to disposal of an interest in them, and
 - (c) references to acquisition of the new assets include references to acquisition of an interest in them or to entering into an unconditional contract for the acquisition of them.
- (7) Where the acquisition of the new assets took place before 14th March 1989 and the disposal of the old assets took place, or takes place, on or after that date, this section shall not apply if the disposal of the old assets took place, or takes place, within 12 months of the acquisition of the new assets or such longer period as the Board may by notice allow.

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Modifications etc. (not altering text)

- C2** Ss. 152-160 modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), [Sch. 24 para. 6\(1\)](#)

^{F3}160 Dual resident companies: roll-over relief.

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Textual Amendments

- F3** S. 160 repealed (with effect in accordance with s. 251(1)(a)(6) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 251(6), [Sch. 26 Pt. VIII\(1\)](#)

Stock in trade

161 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 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) Subject to subsection (4) below, 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 subsection (1), and where that subsection does not apply by reason of such an election, the profits of the trade shall be computed accordingly.
- (4) If a person making an election under subsection (3) 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.

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Transfer of business to a company

162 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 of the chargeable gains less allowable losses (“the amount of the gain on the old assets”).
- (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 38(1)(a) shall be reduced by the amount apportioned to the new asset under paragraph (a) above;

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, it shall be the fraction—

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

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 38(1)(a) 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.

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Retirement relief

163 Relief for disposals by individuals on retirement from family business.

- (1) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 6, in any case where a material disposal of business assets is made by an individual who, at the time of the disposal—
 - (a) has attained the age of 55, or
 - (b) has retired on ill-health grounds below the age of 55.
- (2) For the purposes of this section and Schedule 6, a disposal of business assets is—
 - (a) a disposal of the whole or part of a business, or
 - (b) a disposal of one or more assets which, at the time at which a business ceased to be carried on, were in use for the purposes of that business, or
 - (c) a disposal of shares or securities of a company (including a disposal of an interest in shares which a person is treated as making by virtue of section 122),and the question whether such a disposal is a material disposal shall be determined in accordance with the following provisions of this section.
- (3) A disposal of the whole or part of a business is a material disposal if, throughout a period of at least one year ending with the date of the disposal, the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time the business is owned by the individual making the disposal or—
 - (a) the business is owned by a company—
 - (i) which is a trading company, and
 - (ii) which is either that individual's [^{F4}personal company] or a member of a trading group of which the holding company is that individual's [^{F4}personal company]; and
 - (b) that individual is a [^{F5}full-time working officer or employee] of that company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.
- (4) A disposal of assets such as is mentioned in subsection (2)(b) above is a material disposal if—
 - (a) throughout a period of at least one year ending with the date on which the business ceased to be carried on the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time either the business was owned by the individual making the disposal or paragraphs (a) and (b) of subsection (3) above apply; and
 - (b) on or before the date on which the business ceased to be carried on, the individual making the disposal had either attained the age of 55 or retired on ill-health grounds below that age; and
 - (c) the date on which the business ceased to be carried on falls within the permitted period before the date of the disposal.
- (5) A disposal of shares or securities of a company (including such a disposal of an interest in shares as is mentioned in subsection (2)(c) above) is a material disposal if, throughout a period of at least one year ending with the operative date, the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time—

Status: Point in time view as at 31/12/1995.

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- (a) the individual making the disposal owns the business which, at the date of the disposal, is owned by the company or, if the company is the holding company of a trading group, by any member of the group; or
- (b) the company is the individual's [^{F4}personal company] and is either a trading company or the holding company of a trading group and the individual is a [^{F5}full-time working officer or employee] of the company or, if the company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association;

and, except where subsection (6) or subsection (7) below applies, the operative date for the purposes of this subsection is the date of the disposal.

(6) In any case where—

- (a) within the permitted period before the date of the disposal referred to in subsection (5) above, the company concerned either ceased to be a trading company without continuing to be or becoming a member of a trading group or ceased to be a member of a trading group without continuing to be or becoming a trading company, and
- (b) on or before the date of that cessation, the individual making the disposal attained the age of 55 or retired on ill-health grounds below that age,

then, subject to subsection (7) below, the operative date for the purposes of subsection (5) above is the date of the cessation referred to in paragraph (a) above; and, where this subsection applies, the reference in subsection (5)(a) above to the date of the disposal shall also be construed as a reference to the date of that cessation.

(7) If, throughout a period which ends on the date of the disposal referred to in subsection (5) above or, if subsection (6) above applies, on the date of the cessation referred to in paragraph (a) of that subsection and which begins when the individual concerned ceased to be a [^{F5}full-time working officer or employee] of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association—

- (a) the company concerned was his [^{F4}personal company] and either a trading company or the holding company of a trading group, and
- (b) he was [^{F6}an officer or employee] of the company concerned or, as the case may be, of one or more members of the group or association and, in that capacity, devoted at least 10 hours per week (averaged over the period) to the service of the company or companies in a technical or managerial capacity,

the operative date for the purposes of subsection (5) above is the date on which the individual ceased to be a [^{F5}full-time working officer or employee] as mentioned above.

(8) For the purposes of this section—

- (a) any reference to the disposal of the whole or part of a business by an individual includes a reference to the disposal by him of his interest in the assets of a partnership carrying on the business; and
- (b) subject to paragraph (a) above, at any time when a business is carried on by a partnership, the business shall be treated as owned by each individual who is at that time a member of the partnership.

(9) Part I of Schedule 6 shall have effect for the interpretation of this section as well as of that Schedule.

Status: Point in time view as at 31/12/1995.

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Textual Amendments

- F4** Words in s. 163 substituted (2.7.7.1993 with effect in relation to any disposal made on or after 16.3.1993 as mentioned in s. 87(2)) by 1993 c. 34, s. 87, **Sch. 7 Pt. I para. 1(1)**
- F5** Words in s. 163 substituted (27.7.1993 with effect in relation to any disposal made on or after 16.3.1993 as mentioned in s. 87(2)) by 1993 c. 34, s. 87, **Sch. 7 Pt. I para. 2(1)**
- F6** Words in s. 163(7)(b) substituted (27.7.1993 with effect in relation to any disposal made on or after 16.3.1993 as mentioned in s. 87(2)) by 1993 c. 34, s. 87, **Sch. 7 Pt. I para. 2(2)**

164 Other retirement relief.

- (1) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 6, in any case where an individual—
- who has attained the age of 55, or
 - who has retired on ill-health grounds below the age of 55,
- makes a relevant disposal of the whole or part of the assets provided or held for the purposes of an office or employment exercised by him; and, if he ceases to exercise that office or employment before the date of the relevant disposal, the date on which he ceased to exercise it is in subsection (2) below referred to as the “prior cessation date”.
- (2) For the purposes of subsection (1) above, a disposal of the whole or part of the assets provided or held as mentioned in that subsection is a relevant disposal if—
- throughout a period of at least one year ending with the date of the disposal or, where applicable, the prior cessation date, the office or employment was the full-time occupation of the individual making the disposal; and
 - that office or employment is other than that of [^{F7}officer or employee] of a company which is either the [^{F8}personal company] of the individual concerned or is a member of a trading group of which the holding company is his [^{F8}personal company]; and
 - where there is a prior cessation date, the individual either had attained the age of 55 on or before that date or on that date retired on ill-health grounds below that age; and
 - where there is a prior cessation date, the disposal takes place within the permitted period after the cessation date.
- (3) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 6, where—
- the trustees of a settlement dispose of—
 - shares or securities of a company, or
 - an asset used or previously used for the purposes of a business, being, in either case, part of the settled property; and
 - the conditions in subsection (4) or, as the case may be, subsection (5) below are fulfilled with respect to a beneficiary who, under the settlement, has an interest in possession in the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares or securities or the asset referred to in paragraph (a) above, but excluding, for this purpose, an interest for a fixed term; and in those subsections that beneficiary is referred to as “the qualifying beneficiary”.

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- (4) In relation to a disposal of shares or securities of a company (including such a disposal of an interest in shares as is mentioned in section 163(2)(c)), the conditions referred to in subsection (3)(b) above are—
- (a) that, throughout a period of at least one year ending not earlier than the permitted period before the disposal, the company was the qualifying beneficiary's [^{F8}personal company] and either a trading company or the holding company of a trading group; and
 - (b) that, throughout a period of at least one year ending as mentioned in paragraph (a) above, the qualifying beneficiary was a [^{F9}full-time working officer or employee] of the company or, if the company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association; and
 - (c) that, on the date of the disposal or within the permitted period before that date, the qualifying beneficiary ceased to be a [^{F9}full-time working officer or employee] as mentioned in paragraph (b) above, having attained the age of 55 or retired on ill-health grounds below that age.
- (5) In relation to a disposal of an asset, the conditions referred to in subsection (3)(b) above are—
- (a) that, throughout a period of at least one year ending not earlier than the permitted period before the disposal, the asset was used for the purposes of a business carried on by the qualifying beneficiary; and
 - (b) that, on the date of the disposal or within the permitted period before that date, the qualifying beneficiary ceased to carry on the business referred to in paragraph (a) above; and
 - (c) that, on or before the date of the disposal or, if it was earlier, the date on which the qualifying beneficiary ceased to carry on that business, he attained the age of 55 or retired on ill-health grounds below that age.
- (6) In any case where—
- (a) by virtue of section 163, relief falls to be given, in accordance with Schedule 6, in respect of a material disposal of business assets which either consists of the disposal by an individual of his interest in the assets of a partnership or is of a description falling within subsection (5) of that section, and
 - (b) the individual making that material disposal makes an associated disposal of assets, as defined in subsection (7) below,
- relief from capital gains tax shall also be given, subject to and in accordance with that Schedule in respect of the associated disposal.
- (7) In relation to a material disposal of business assets, a disposal of an asset is an associated disposal if—
- (a) it takes place as part of a withdrawal of the individual concerned from participation in the business carried on by the partnership referred to in subsection (6)(a) above or, as the case may be, by the company which owns the business as mentioned in section 163(5)(a); and
 - (b) immediately before the material disposal or, if it was earlier, the cessation of the business mentioned in paragraph (a) above, the asset was in use for the purposes of that business; and
 - (c) during the whole or part of the period in which the asset has been in the ownership of the individual making the disposal the asset has been used—

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- (i) for the purposes of the business mentioned in paragraph (a) above (whether or not carried on by the partnership or company there referred to); or
 - (ii) for the purposes of another business carried on by the individual or by a partnership of which the individual concerned was a member; or
 - (iii) for the purposes of another business in respect of which the conditions in paragraphs (a) and (b) of subsection (3) of section 163 were fulfilled.
- (8) In subsections (6) and (7) above “material disposal of business assets” has the same meaning as in section 163 and Part I of Schedule 6 shall have effect for the interpretation of this section as well as of that Schedule.

Textual Amendments

- F7** Words in s. 164(2)(b) substituted (27.7.1993 with effect in relation to any disposal made on or after 16.3.1993 as mentioned in s. 87(2)) by 1993 c. 34, s. 87, **Sch. 7 Pt. I para. 2(3)**
- F8** Words in s. 164 substituted (27.7.1993 with effect in relation to any disposal made on or after 16.3.1993 as mentioned in s. 87(2)) by 1993 c. 34, s. 87, **Sch. 7 Pt. I para. 1(1)**
- F9** Words in s. 164 substituted (27.7.1993 with effect in relation to any disposal made on or after 16.3.1993 as mentioned in s. 87(2)) by 1993 c. 34, s. 87, **Sch. 7 Pt. I para. 2(1)**

Status:

Point in time view as at 31/12/1995.

Changes to legislation:

Taxation of Chargeable Gains Act 1992, Chapter I is up to date with all changes known to be in force on or before 06 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.