



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART V

#### TRANSFER OF BUSINESS ASSETS

#### CHAPTER I

#### GENERAL PROVISIONS

#### *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 [<sup>F1</sup>the age of 50], or
  - (b) has retired on ill-health grounds below [<sup>F1</sup>the age of 50].
- (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—

*Status: Point in time view as at 29/04/1996.*

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- (a) the business is owned by a company—
    - (i) which is a trading company, and
    - (ii) which is either that individual's [<sup>F2</sup>personal company] or a member of a trading group of which the holding company is that individual's [<sup>F2</sup>personal company]; and
  - (b) that individual is a [<sup>F3</sup>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 [<sup>F1</sup>the age of 50] 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—
- (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 [<sup>F2</sup>personal company] and is either a trading company or the holding company of a trading group and the individual is a [<sup>F3</sup>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 [<sup>F1</sup>the age of 50] 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.

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- (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 [<sup>F3</sup>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 [<sup>F2</sup>personal company] and either a trading company or the holding company of a trading group, and
  - (b) he was [<sup>F4</sup>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 [<sup>F3</sup>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.

#### Textual Amendments

- F1** Words in s. 163 substituted (with effect in accordance with s. 176(2) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 176\(1\)](#)
- F2** 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\(1\)](#)
- F3** 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\(1\)](#)
- F4** 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—
- (a) who has attained [<sup>F5</sup>the age of 50], or
  - (b) who has retired on ill-health grounds below [<sup>F5</sup>the age of 50],
- 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—

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- (a) 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
  - (b) that office or employment is other than that of [<sup>F6</sup>officer or employee] of a company which is either the [<sup>F7</sup>personal company] of the individual concerned or is a member of a trading group of which the holding company is his [<sup>F7</sup>personal company]; and
  - (c) where there is a prior cessation date, the individual either had attained [<sup>F5</sup>the age of 50] on or before that date or on that date retired on ill-health grounds below that age; and
  - (d) 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—
- (a) the trustees of a settlement dispose of—
    - (i) shares or securities of a company, or
    - (ii) an asset used or previously used for the purposes of a business, being, in either case, part of the settled property; and
  - (b) 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”.
- (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 [<sup>F7</sup>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 [<sup>F8</sup>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 [<sup>F8</sup>full-time working officer or employee] as mentioned in paragraph (b) above, having attained [<sup>F5</sup>the age of 50] 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

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- (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 [<sup>F5</sup>the age of 50] 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—
    - (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

- F5** Words in s. 164 substituted (with effect in accordance with s. 176(2) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 176\(1\)](#)
- F6** 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\(3\)](#)
- F7** 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\(1\)](#)
- 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. 2\(1\)](#)

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