



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART V

#### TRANSFER OF BUSINESS ASSETS

#### CHAPTER I

#### GENERAL PROVISIONS

#### *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 <sup>[F1]</sup>if—
  - (a) he is chargeable to corporation tax in respect of the profits of the trade <sup>[F2]</sup>under Chapter 2 of Part 3 of CTA 2009 and the trade is carried on wholly or partly in the United Kingdom], or

*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Stock in trade is up to date with all changes known to be in force on or before 17 July 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)*

- (b) he is chargeable to income tax in respect of the profits of the trade under Chapter 2 of Part 2 of ITTOIA 2005 and the trade is carried on wholly or partly in the United Kingdom,

and he 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.

[<sup>F3</sup>(3A) An election under subsection (3) above shall be made—

- (a) for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which ends the period of account in which the asset is appropriated for the purposes of the trade as trading stock;
- (b) for the purposes of corporation tax, within 2 years after the end of the accounting period in which the asset is appropriated for the purposes of the trade as trading stock;

<sup>F4</sup>..... ]

- (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.

[<sup>F5</sup>(5) If—

- (a) any person is charged to income tax under section 755 of ITA 2007 (charge to tax from transactions in land) on the realisation of a gain because the condition in section 756(3)(d) is met, and
- (b) the gain is calculated on the basis that any property was appropriated as trading stock,

the property shall be treated on that basis also for the purposes of this section.]

#### Textual Amendments

- F1** Words in s. 161(3) substituted (with effect in accordance with art. 1(3)(4) of the amending S.I.) by [The Income Tax \(Trading and Other Income\) Act 2005 \(Consequential Amendments\) Order 2006 \(S.I. 2006/959\)](#), arts. 1(2), **3(3)**
- F2** Words in s. 161(3)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 374** (with [Sch. 2 Pts. 1, 2](#))
- F3** S. 161(3A) inserted (with effect in accordance with s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 21 para. 36**
- F4** Words in s. 161(3A) repealed (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 40 Pt. 3(16)**
- F5** S. 161(5) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 321** (with [Sch. 2](#))

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

- C1** S. 161 applied (with modifications) (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 26 para. 45(2)**

**Status:**

Point in time view as at 01/04/2009.

**Changes to legislation:**

Taxation of Chargeable Gains Act 1992, Cross Heading: Stock in trade is up to date with all changes known to be in force on or before 17 July 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.