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# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART VI

COMPANIES, OIL, INSURANCE ETC.

### CHAPTER IV

MISCELLANEOUS CASES

*Building societies etc.*

#### **215 Disposal of assets on amalgamation of building societies etc.**

If, in the course of or as part of an amalgamation of 2 or more building societies or a transfer of engagements from one building society to another, there is a disposal of an asset by one society to another, both shall be treated for the purposes of corporation tax on chargeable gains as if the asset were acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.

#### **216 Assets transferred from society to company.**

- (1) This section and section 217 apply where there is a transfer of the whole of a building society's business to a company ("the successor company") in accordance with section 97 and the other applicable provisions of the <sup>M1</sup>Building Societies Act 1986.
- (2) Where the society and the successor company are not members of the same group at the time of the transfer—
  - (a) they shall be treated for the purposes of corporation tax on capital gains as if any asset disposed of as part of the transfer were acquired by the successor company for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the society, and

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- (b) if because of the transfer any company ceases to be a member of the same group as the society, that event shall not cause section 178 or 179 to have effect as respects any asset acquired by the company from the society or any other member of the same group.
- (3) Where the society and the successor company are members of the same group at the time of the transfer but later cease to be so, that later event shall not cause section 178 or 179 to have effect as respects—
- (a) any asset acquired by the successor company on or before the transfer from the society or any other member of the same group, or
  - (b) any asset acquired from the society or any other member of the same group by any company other than the successor company which is a member of the same group at the time of the transfer.
- (4) Subject to subsection (6) below, where a company which is a member of the same group as the society at the time of the transfer—
- (a) ceases to be a member of that group and becomes a member of the same group as the successor company, and
  - (b) subsequently ceases to be a member of that group,
- section 178 or 179 shall have effect on that later event as respects any relevant asset acquired by the company otherwise than from the successor company as if it had been acquired from the successor company.
- (5) In subsection (4) above “relevant asset” means any asset acquired by the company—
- (a) from the society, or
  - (b) from any other company which is a member of the same group at the time of the transfer,
- when the company and the society, or the company, the society and the other company, were members of the same group.
- (6) Subsection (4) above shall not apply if the company which acquired the asset and the company from which it was acquired (one being a 75 per cent. subsidiary of the other) cease simultaneously to be members of the same group as the successor company but continue to be members of the same group as one another.
- (7) For the purposes of this section “group” shall be construed in accordance with section 170.

**Marginal Citations**

**M1** 1986 c. 53.

**217 Shares, and rights to shares, in successor company.**

- (1) Where, in connection with the transfer, there are conferred on members of the society—
- (a) any rights to acquire shares in the successor company in priority to other persons, or
  - (b) any rights to acquire shares in that company for consideration of an amount or value lower than the market value of the shares, or
  - (c) any rights to free shares in that company,

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any such right so conferred on a member shall be regarded for the purposes of tax on chargeable gains as an option (within the meaning of section 144) granted to, and acquired by, him for no consideration and having no value at the time of that grant and acquisition.

(2) Where, in connection with the transfer, shares in the successor company are issued by that company, or disposed of by the society, to a member of the society, those shares shall be regarded for the purposes of tax on chargeable gains—

- (a) as acquired by the member for a consideration of an amount or value equal to the amount or value of any new consideration given by him for the shares (or, if no new consideration is given, as acquired for no consideration); and
- (b) as having, at the time of their acquisition by the member, a value equal to the amount or value of the new consideration so given (or, if no new consideration is given, as having no value);

but this subsection is without prejudice to the operation of subsection (1) above, where applicable.

(3) Subsection (4) below applies in any case where—

- (a) in connection with the transfer, shares in the successor company are issued by that company, or disposed of by the society, to trustees on terms which provide for the transfer of those shares to members of the society for no new consideration; and
- (b) the circumstances are such that in the hands of the trustees the shares constitute settled property.

(4) Where this subsection applies, then, for the purposes of tax on chargeable gains—

- (a) the shares shall be regarded as acquired by the trustees for no consideration;
- (b) the interest of any member in the settled property constituted by the shares shall be regarded as acquired by him for no consideration and as having no value at the time of its acquisition;
- (c) where a member becomes absolutely entitled as against the trustees to any of the settled property, both the trustees and the member shall be treated as if, on his becoming so entitled, the shares in question had been disposed of and immediately reacquired by the trustees, in their capacity as trustees within section 60(1), for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss would accrue to the trustees (and accordingly section 71 shall not apply in relation to that occasion); and
- (d) on the disposal by a member of an interest in the settled property, other than the disposal treated as occurring for the purposes of paragraph (c) above, any gain accruing shall be a chargeable gain (and accordingly section 76(1) shall not apply in relation to the disposal).

(5) Where, in connection with the transfer, the society disposes of any shares in the successor company, then, for the purposes of this Act, any gains arising on the disposal shall not be chargeable gains.

(6) In this section—

“free shares”, in relation to a member of the society, means any shares issued by the successor company, or disposed of by the society, to that member in connection with the transfer but for no new consideration;

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“member”, in relation to the society, means a person who is or has been a member of it, in that capacity, and any reference to a member includes a reference to a member of any particular class or description;

“new consideration” means consideration other than—

- (a) consideration provided directly or indirectly out of the assets of the society; or
- (b) consideration derived from a member’s shares or other rights in the society.

- (7) References in this section to the case where a member becomes absolutely entitled to settled property as against the trustees shall be taken to include references to the case where he would become so entitled but for being an infant or otherwise under disability.

VALID FROM 19/02/1993

*[<sup>F1</sup>Friendly societies]*

**Textual Amendments**

**F1** Cross heading inserted (19.2.1993) by 1992 c. 48, s. 56, **Sch. 9 para. 21(3)**; S.I. 1993/236, **art. 2**

**[<sup>F2</sup>217A Transfer of assets on incorporation of registered friendly society.**

- (1) This section and section 217B apply where a registered friendly society is incorporated under the Friendly Societies Act 1992 (“the 1992 Act”).
- (2) In this section and section 217B—
  - (a) “the registered society” means the society before the incorporation, and
  - (b) “the incorporated society” means the society after the incorporation.
- (3) For the purposes of corporation tax on chargeable gains—
  - (a) any asset of the registered society that by virtue of section 6(2) or (3) of the 1992 Act is transferred to the incorporated society,
  - (b) any asset of a branch of the registered society that by virtue of section 6(4) of the 1992 Act is transferred to the incorporated society, and
  - (c) any asset of a branch of the registered society that is identified in a scheme under section 6(5) of the 1992 Act,

shall be taken to be disposed of by the registered society or branch and acquired by the incorporated society on the incorporation for a consideration of such amount as to secure that on the disposal neither a gain nor a loss accrues to the registered society or branch.]

**Textual Amendments**

**F2** S. 217A inserted (19.2.1993) by 1992 c. 48, s. 56, **Sch. 9 para. 21(3)**; S.I. 1993/236, **art.2**

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**[<sup>F3</sup>217B Rights of members in registered society equated with rights in incorporated society.**

- (1) In this section, “change of membership” means a change effected by Schedule 4 to the 1992 Act whereby a member of the registered society or of a branch of the registered society becomes a member of the incorporated society or of a branch of the incorporated society.
- (2) For the purposes of this Act, a change of membership shall not be taken to involve any disposal or acquisition of an asset by the member concerned, but all the interests and rights in the incorporated society or a branch of the incorporated society that he has immediately after the change, taken together, shall be treated as a single asset which—
  - (a) was acquired by the first relevant acquisition, and
  - (b) was added to by any subsequent relevant acquisitions.
- (3) In subsection (2) above, “relevant acquisition” means an acquisition by which the member acquired any interest or right in the registered society or a branch of the registered society that he had immediately before the change of membership.]

**Textual Amendments**

**F3** S. 217B inserted (19.2.1993) by 1992 c. 48, s. 56, **Sch. 9 para. 21(3)**; S.I. 1993/236, **art.2**

**[<sup>F4</sup>217C Subsequent disposal of assets by incorporated society etc.**

- (1) Where any asset acquired on a disposal to which section 217A(3) applies is subsequently disposed of by the incorporated society, section 41 shall apply as if any capital allowance made to the registered society in respect of the asset had been made to the incorporated society.
- (2) If the disposal by the incorporated society is in relevant circumstances for the purposes of section 174(1), the disposal to which section 217A(3) applies shall for those purposes be taken to have been a previous transfer of the asset in relevant circumstances.]

**Textual Amendments**

**F4** S. 217C inserted (19.2.1993) by 1992 c. 48, s. 56, **Sch. 9 para. 21(3)**; S.I. 1993/236, **art.2**

*The Housing Corporation, Housing for Wales and housing associations*

**218 Disposals of land between the Housing Corporation, Housing for Wales or Scottish Homes and housing associations.**

- (1) Where—
  - (a) in accordance with a scheme approved under section 5 of the <sup>M2</sup>Housing Act 1964 or paragraph 5 of Schedule 7 to the <sup>M3</sup>Housing Associations Act 1985, the Housing Corporation acquires from a housing association the association’s interest in all the land held by the association for carrying out its objects, or

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- (b) after the Housing Corporation has so acquired from a housing association all the land so held by it the Corporation disposes to a single housing association of the whole of that land (except any part previously disposed of or agreed to be disposed of otherwise than to a housing association), together with all related assets,

then both parties to the disposal of the land to or, as the case may be, by the Housing Corporation shall be treated for the purposes of corporation tax in respect of chargeable gains as if the land and any related assets disposed of therewith (and each part of that land and those assets) were acquired from the party making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss accrued to that party.

- (2) In subsection (1) above, “housing association” has the same meaning as in the <sup>M4</sup>Housing Associations Act 1985, and “related assets” means, in relation to an acquisition of land by the Housing Corporation, assets acquired by the Corporation in accordance with the same scheme as that land, and in relation to a disposal of land by the Housing Corporation, assets held by the Corporation for the purposes of the same scheme as that land.
- (3) This section shall also have effect with the substitution of the words “ Housing for Wales ” for the words “the Housing Corporation” and “the Corporation” in each place where they occur.
- (4) This section shall also have effect with the substitution of the words “ Scottish Homes ” for the words “the Housing Corporation” and “the Corporation” in each place where they occur.

#### Marginal Citations

**M2** 1964 c. 56.

**M3** 1985 c. 69.

**M4** 1985 c. 69.

## 219 Disposals by Housing Corporation, Housing for Wales, Scottish Homes and certain housing associations.

- (1) In any case where—
- the Housing Corporation dispose of any land to a registered housing association, or
  - a registered housing association disposes of any land to another registered housing association, or
  - in pursuance of a direction of the Housing Corporation given under Part I of the <sup>M5</sup>Housing Associations Act 1985 requiring it to do so, a registered housing association disposes of any of its property, other than land, to another registered housing association, or
  - a registered housing association or an unregistered self-build society disposes of any land to the Housing Corporation,

both parties to the disposal shall be treated for the purposes of tax on chargeable gains as if the land or property disposed of were acquired from the Housing Corporation, registered housing association or unregistered self-build society making the disposal for a consideration of such an amount as would secure that on the disposal neither

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a gain nor a loss accrued to the Corporation or, as the case may be, that association or society.

- (2) Subsection (1) above shall also have effect with the substitution of the words “ Housing for Wales ” for the words “the Housing Corporation” and “the Corporation” in each place where they occur.
- (3) Subsection (1) above shall also have effect with the substitution of the words “ Scottish Homes ” for the words “the Housing Corporation” and “the Corporation” in each place where they occur.
- (4) In this section “registered housing association” and “unregistered self-build society” have the same meanings as in the <sup>M6</sup>Housing Associations Act 1985.

**Marginal Citations**

**M5** 1985 c. 69.

**M6** 1985 c. 69.

**220 Disposals by Northern Ireland housing associations.**

- (1) In any case where—
  - (a) a registered Northern Ireland housing association disposes of any land to another such association, or
  - (b) in pursuance of a direction of the Department of the Environment for Northern Ireland given under Chapter II of Part VII of the <sup>M7</sup>Housing (Northern Ireland) Order 1981 requiring it to do so, a registered Northern Ireland housing association disposes of any of its property, other than land, to another such association,

both parties to the disposal shall be treated for the purposes of tax on chargeable gains as if the land or property disposed of were acquired from the association making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss accrued to that association.

- (2) In subsection (1) above “registered Northern Ireland housing association” means a registered housing association within the meaning of Part VII of the Order referred to in paragraph (b) of that subsection.

**Marginal Citations**

**M7** S.I. 1981/156 (N.I.3).

*Other bodies*

**221 Harbour authorities.**

- (1) For the purposes of this Act any asset transferred on the transfer of the trade shall be deemed to be for a consideration such that no gain or loss accrues to the transferor on its transfer; and for the purposes of Schedule 2 the transferee shall be treated as if the acquisition by the transferor of any asset so transferred had been the transferee’s acquisition thereof.

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- (2) This section applies only where the trade transferred is transferred from any body corporate other than a limited liability company to a harbour authority by or under a certified harbour reorganisation scheme (within the meaning of section 518 of the Taxes Act) which provides also for the dissolution of the transferor.



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