



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART III

INDIVIDUALS, PARTNERSHIPS, TRUSTS AND COLLECTIVE INVESTMENT SCHEMES <sup>[F1]</sup>ETC

### <sup>[F1]</sup>CHAPTER 5

CARRIED INTEREST

#### <sup>[F1]</sup>103KE Carried interest: avoidance of double taxation

- (1) This section applies where—
  - (a) capital gains tax is charged on an individual by virtue of section 103KA in respect of any carried interest, and
  - (b) Condition A or Condition B is met.
- (2) Condition A is that—
  - (a) at any time, tax (whether income tax or another tax) charged on the individual in relation to the carried interest has been paid by the individual (and has not been repaid), and
  - (b) the amount on which tax is charged as specified in subsection (1)(a) is not a permissible deduction under section 103KA(6)(b) or (c).
- (3) Condition B is that at any time tax (whether income tax or another tax) charged on another person in relation to the carried interest has been paid by that other person (and has not been repaid).
- (4) In order to avoid a double charge to tax, the individual may make a claim for one or more consequential adjustments to be made in respect of the capital gains tax charged as mentioned in subsection (1)(a).
- (5) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.

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**Changes to legislation:** *Taxation of Chargeable Gains Act 1992, Section 103KE is up to date with all changes known to be in force on or before 11 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) View outstanding changes*

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- (6) The value of any consequential adjustments made must not exceed the lesser of—
- (a) the capital gains tax charged as mentioned in subsection (1)(a), and
  - (b) the tax charged as mentioned in subsection (2)(a) or (3).
- (7) Consequential adjustments may be made—
- (a) in respect of any period,
  - (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and
  - (c) despite any time limit imposed by or under an enactment.
- (8) Where—
- (a) an individual makes a claim under this section in respect of a year of assessment, and
  - (b) apart from this subsection, an amount falls to be deducted under [<sup>F2</sup>section 1(3)(b)] from the total amount of chargeable gains accruing to the individual in that year,
- the individual may elect that the amount to be so deducted be reduced by any amount not exceeding the amount on which tax is charged as specified in subsection (2)(a) or (3).]

#### **Textual Amendments**

- F1** Pt. 3 Ch. 5 inserted (with effect in accordance with s. 43(2)-(4) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 43\(1\)](#)
- F2** Words in s. 103KE(8)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 1 para. 48](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)](#)[\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by S.I. 2008/3068, art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by S.I. 1989/469, reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by S.I. 1989/469, reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)