



# 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 <sup>[F1]</sup>subsections (3) to (3ZB)] 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>[F2]</sup>if—
  - (a) he is chargeable to corporation tax in respect of the profits of the trade <sup>[F3]</sup>under Chapter 2 of Part 3 of CTA 2009 and the trade is carried on wholly or partly in the United Kingdom], or

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*Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 161 is up to date with all changes known to be in force on or before 25 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>F4</sup>(3ZA) But if the person—

- (a) meets the requirement of paragraph (a) or (b) of subsection (3), and
- (b) (ignoring any election under this section) would be treated under subsection (1) as making a relevant high value disposal on which an ATED-related gain chargeable to, or loss allowable for the purposes of, capital gains tax under section 2B would accrue,

the person may not elect under subsection (3) but may elect for subsection (3ZB) to apply.

(3ZB) Subject to subsection (4), where an election is made for this subsection to apply—

- (a) a gain or loss accruing on the disposal under subsection (1) which is not ATED-related is not a chargeable gain or an allowable loss,
- (b) the market value of the asset at the time of the appropriation is, for the purposes of computing the profits of the trade for the purposes of tax, to be treated as reduced by the amount of any gain, or increased by the amount of any loss, which would be a chargeable gain or allowable loss but for paragraph (a), and
- (c) the chargeable gain or allowable loss which accrues on that disposal and is ATED-related is unaffected by the election.]

[<sup>F5</sup>(3A) An election under subsection (3) [<sup>F6</sup>or (3ZA)] 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>F7</sup>..... ]

(4) If a person making an election under subsection (3) [<sup>F8</sup>or (3ZA)] 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>F9</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.]

[<sup>F10</sup>(6) If—

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- (a) any person is charged to corporation tax under section 818 of CTA 2010 (charge to tax on gains from transactions in land) on the realisation of a gain because the condition in section 819(2)(d) of that Act 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(1) substituted (with effect in accordance with Sch. 25 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 25 para. 11(2)**
- F2** 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)**
- F3** 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](#))
- F4** S. 161(3ZA)(3ZB) inserted (with effect in accordance with Sch. 25 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 25 para. 11(3)**
- F5** 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**
- F6** Words in s. 161(3A) inserted (with effect in accordance with Sch. 25 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 25 para. 11(4)**
- F7** Words in s. 161(3A) repealed (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **Sch. 40 Pt. 3(16)**
- F8** Words in s. 161(4) inserted (with effect in accordance with Sch. 25 para. 20 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 25 para. 11(5)**
- F9** S. 161(5) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 321** (with [Sch. 2](#))
- F10** S. 161(6) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 240** (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)**

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