



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART V

#### TRANSFER OF BUSINESS ASSETS<sup>[F1]</sup>, ENTREPRENEURS' RELIEF AND INVESTORS' RELIEF

#### CHAPTER I

##### [<sup>F1</sup>TRANSFER OF BUSINESS ASSETS:] GENERAL PROVISIONS

##### *Transfer of business to a company*

##### [<sup>F1</sup>162A Election for section 162 not to apply

- (1) Section 162 shall not apply where the transferor makes an election under this section.
- (2) An election under this section must be made by a notice given to an officer of the Board no later than the relevant date.
- (3) Except where subsection (4) below applies, the relevant date is the second anniversary of the 31st January next following the year of assessment in which the transfer of the business took place.
- (4) Where, by the end of the year of assessment following the one in which the transfer of the business took place, the transferor has disposed of all the new assets, the relevant date is the first anniversary of the 31st January next following the year of assessment in which the transfer of the business took place.
- (5) For the purposes of subsection (4) above—
  - (a) a disposal of any of the new assets by the transferor shall be disregarded if it falls within section 58(1) (transfers between [<sup>F2</sup>spouses and civil partners]); but
  - (b) where a disposal of any assets to a person is disregarded by virtue of paragraph (a) above, a subsequent disposal by that person of any of those

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**Changes to legislation:** *Taxation of Chargeable Gains Act 1992, Section 162A is up to date with all changes known to be in force on or before 06 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)*

assets (other than a disposal to the transferor) shall be regarded as a disposal by the transferor.

- (6) All such adjustments shall be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under this section.
- (7) Where, immediately before it was transferred, the business was owned by two or more persons—
- (a) each of them has a separate entitlement to make an election under this section;
  - (b) an election made by a person by virtue of paragraph (a) above shall apply only to—
    - (i) the share of the amount of the gain on the old assets, and
    - (ii) the share of the new assets,
 that is attributable to that person for the purposes of this Act.
- (8) The reference in subsection (7) above to ownership by two or more persons includes, in Scotland as well as elsewhere in the United Kingdom, a reference to ownership by a partnership consisting of two or more persons.
- (9) Expressions used in this section and in section 162 have the same meaning in this section as in that one.

But references in this section to new assets also include any shares or debentures that are treated by virtue of one or more applications of section 127 (including that section as applied by virtue of any enactment relating to chargeable gains) as the same asset as the new assets.]

#### **Textual Amendments**

- F1** S. 162A inserted (with application in accordance with s. 49(2) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 49\(1\)](#)
- F2** Words in s. 162A(5)(a) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\), regs. 1\(1\), 111](#)

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