



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART V

TRANSFER OF BUSINESS ASSETS

[^{F1}CHAPTER IA

ROLL-OVER RELIEF ON RE-INVESTMENT]

[^{F1}164H Property companies etc. not to be qualifying companies.

- (1) For the purposes of this Chapter a company is not a qualifying company at any time when the value of the interests in land held by the company [^{F2}exceeds] half the value of the company's chargeable assets ^{F3}... [^{F4}or half the value of the company's assets as a whole (whichever is the greater); and section 294(3) and (4) of the Taxes Act (meaning of value of company's assets as a whole) applies for the purposes of this subsection as it applies for the purposes of section 294 of that Act].
- (2) For the purposes of this section the value of the interests in land held by a company at any time shall be arrived at by first aggregating the market value at that time of each of those interests and then deducting—
 - (a) the amount of any debts of the company which are secured on any of those interests (including any debt secured by a floating charge on property which comprises any of those interests);
 - (b) the amount of any unsecured debts of the company which do not fall due for payment before the end of the period of 12 months beginning with that time; and
 - (c) the amount paid up in respect of those shares of the company (if any) which carry a present or future preferential right to the company's assets on its winding up.
- (3) In this section “interest in land” means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an

Status: Point in time view as at 19/03/1997. This version of this provision has been superseded.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 164H is up to date with all changes known to be in force on or before 19 June 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)

estate, interest or right from another which is conditional on that other's ability to grant the estate, interest or right in question, except that it does not include—

- (a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of a mortgage, an agreement for a mortgage or a charge of any kind over land; or
 - (b) in the case of land in Scotland, the interest of a creditor in a charge or security of any kind over land.
- (4) For the purposes of this section, the value of an interest in any building or other land shall be adjusted by deducting the market value of any machinery or plant which is so installed or otherwise fixed in or to the building or other land as, in law, to become part of it.
- (5) In arriving at the value of any interest in land for the purposes of this section—
- (a) it shall be assumed that there is no source of mineral deposits in the land of a kind which it would be practicable to exploit by extracting them from underground otherwise than by means of opencast mining or quarrying; and
 - (b) any borehole on the land shall be disregarded if it was made in the course of oil exploration.
- (6) Where a company is a member of a partnership which holds any interest in land—
- (a) that interest shall, for the purposes of this section, be treated as an interest in land held by the company; but
 - (b) its value at any time shall, for those purposes, be taken to be such fraction of its value (apart from this subsection) as is equal to the fraction of the assets of the partnership to which the company would be entitled if the partnership were dissolved at that time.
- (7) Where a company is a member of a group of companies all the members of the group shall be treated as a single company for the purposes of this section; but any debt owed by, or liability of, one member of the group to another shall be disregarded for those purposes.]

Textual Amendments

- F1** Ss. 164A-164N (Pt. V, Ch. 1A) inserted (27.7.1993 with effect in relation to any disposal made on or after 16.3.1993 as mentioned in s. 87(2)) by [1993 c. 34, s. 87, Sch. 7 Pt. II para.3](#)
- F2** Word in s. 164H(1) substituted (with effect in accordance with s. 91(4) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 91\(3\)\(a\)](#)
- F3** Words in s. 164H(1) repealed (with effect in accordance with s. 91(2) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 11 para. 5, Sch. 26 Pt. V\(7\)](#)
- F4** Words in s. 164H(1) added (with effect in accordance with s. 91(4) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 91\(3\)\(b\)](#)

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