



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART V

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

### CHAPTER II

#### GIFTS OF BUSINESS ASSETS

#### <sup>[F1]</sup>167A Gifts of <sup>[F2]</sup>direct or indirect interests in UK land] to non-residents

- (1) This section applies where the disposal in relation to which a claim could be made under section 165 is a disposal <sup>[F3]</sup>of an asset within section 1A(3)(b) or (c)] to a transferee who is not resident in the United Kingdom and, ignoring section 165—
  - (a) a gain would accrue to the transferor on the disposal, and
  - <sup>[F4]</sup>(b) on the assumption that the disposal is a direct or indirect disposal of UK land which meets the non-residence condition (whether or not that is the case), that gain would be a relevant gain (see subsections (6) and (7)).]
- (2) Section 165(4) has effect in relation to the disposal as if it read—
  - “(4) Where a claim for relief is made under this section in respect of the disposal, the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, shall be reduced by an amount equal to the held-over gain on the disposal.”
- (3) Where the disposal is a <sup>[F5]</sup>direct or indirect disposal of UK land which meets the non-residence condition]—
  - (a) section 165(4), as modified by subsection (2) of this section, has effect in relation to the disposal as if the reference to “chargeable gain” were a reference to <sup>[F6]</sup>“relevant gain”],

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- (b) section 165(6) has effect in relation to the disposal as if the references to “chargeable gain” were references to [F7“relevant gain”], and
  - (c) section 165(7) has effect in relation to the disposal as if the reference to “the excess referred to in paragraph (b) above” were a reference to [F8“the relevant gain] which, ignoring this section and section 17(1), would accrue to the transferor on the disposal”.
- (4) Where a claim for relief is made under section 165 in relation to the disposal mentioned in subsection (1), on a subsequent disposal by the transferee of the whole or part of [F9the asset within section 1A(3)(b) or (c)] which is the subject of the disposal mentioned in subsection (1), the whole or a corresponding part of the held-over gain (see section 165(6))—
- (a) is deemed to accrue to the transferee (in addition to any gain or loss that actually accrues on that subsequent disposal), and
  - [F10(b) (if that would not otherwise be the case) is to be treated as a relevant gain.]
- (5) Where the subsequent disposal mentioned in subsection (4) is (or proves to be) a chargeable transfer for inheritance tax purposes, section 165(10) has effect in relation to the disposal as if—
- (a) the reference to “the chargeable gain accruing to the transferee on the disposal of the asset” were a reference to the chargeable gain accruing on the disposal as computed apart from subsection (4), and
  - (b) the reference in section 165(10)(b) to “the chargeable gain” were a reference to—
    - (i) the chargeable gain chargeable to capital gains tax by virtue of any provision of this Act accruing on the disposal, and
    - (ii) the held-over gain deemed to accrue under subsection (4).
- [F11(6) For the purposes of this section, a disposal is a “direct or indirect disposal of UK land which meets the non-residence condition” if it is—
- (a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection, or
  - (b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c).
- (7) For the purposes of this section, a “relevant gain” means so much of any chargeable gain accruing on a disposal as falls to be dealt with as mentioned in subsection (6) (a) or (b).]]

#### Textual Amendments

- F1** S. 167A inserted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 7 para. 26](#)
- F2** Words in s. 167A heading substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 56\(6\)](#)
- F3** Words in s. 167A(1) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 56\(2\)\(a\)](#)
- F4** S. 167A(1)(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. 56\(2\)\(b\)](#)

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- F5** Words in s. 167A(3) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 56\(3\)\(a\)](#)
- F6** Words in s. 167A(3)(a) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 56\(3\)\(b\)](#)
- F7** Words in s. 167A(3)(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. 56\(3\)\(c\)](#)
- F8** Words in s. 167A(3)(c) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 56\(3\)\(d\)](#)
- F9** Words in s. 167A(4) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 56\(4\)\(a\)](#)
- F10** S. 167A(4)(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. 56\(4\)\(b\)](#)
- F11** S. 167A(6)(7) substituted for s. 167A(6) (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 56\(5\)](#)

**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](#)