



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART V

TRANSFER OF BUSINESS ASSETS^[F1], ^[F1]BUSINESS ASSET DISPOSAL RELIEF^[F1] AND INVESTORS' RELIEF^[F1]

CHAPTER II

GIFTS OF BUSINESS ASSETS

^[F1]169C Clawback of relief if settlement becomes settlor-interested etc

- (1) This section applies in relation to a disposal (“the relevant disposal”)—
 - (a) made by a person (“the transferor”) to the trustees of a settlement,
 - (b) in relation to which section 165(4) or 260(3) applies, or would apart from this section apply, and
 - (c) in respect of which Condition 1 or Condition 2 below is satisfied.
- (2) Condition 1 is that, at any time during the clawback period,—
 - (a) there is a settlor who has an interest in the settlement, or
 - (b) an arrangement subsists under which such an interest will or may be acquired by a settlor.
- (3) Condition 2 is that—
 - (a) in computing the chargeable gain which would (assuming that neither section 165(4) nor section 260(3) applied in relation to the relevant disposal) accrue to the transferor on that disposal, the allowable expenditure would fall to be reduced,
 - (b) that reduction would to any extent fall to be made in consequence, directly or indirectly, of a claim under section 165 or 260 in respect of an earlier disposal made by an individual (whether or not to the transferor), and
 - (c) at any time during the clawback period,—

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 169C is up to date with all changes known to be in force on or before 18 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

- (i) that individual has an interest in the settlement, or
 - (ii) an arrangement subsists under which such an interest will or may be acquired by him.
- (4) If no claim for relief under section 165 or 260 in respect of the relevant disposal is made before the material time, neither section 165(4) nor section 260(3) shall apply in relation to that disposal.
- (5) Subsections (7) to (9) below apply if a claim for relief under section 165 or 260 in respect of the relevant disposal is made before the material time.
- (6) But those subsections do not apply if—
- (a) the transferor is an individual, and
 - (b) he dies before the material time.
- (7) A chargeable gain, of an amount equal to the amount of the held-over gain (within the meaning of section 165 or 260) on the relevant disposal, shall be treated for the purposes of tax in respect of chargeable gains as accruing to the transferor at the material time.
- (8) For any chargeable period ending after the making of the relevant disposal, the chargeable gains and allowable losses of—
- (a) the trustees of the settlement, or
 - (b) any person whose title to any property to any extent derives, directly or indirectly, from them,
- shall be determined on the assumption that neither section 165(4)(b) nor section 260(3)(b) ever applied in relation to that disposal.
- (9) All such adjustments shall be made, whether by discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to subsection (8) above (notwithstanding any limitation on the time within which any adjustment may be made).
- (10) If a claim for relief under section 165 or 260 in respect of the relevant disposal is revoked, this section shall apply as if the claim had never been made.
- (11) In this section “the clawback period” means the period—
- (a) beginning immediately after the making of the relevant disposal, and
 - (b) ending six years after the end of the year of assessment in which that disposal was made.
- (12) In this section “the material time” means the time at which subsection (1)(c) above first becomes satisfied.
- (13) This section is subject to section 169D.]

Textual Amendments

- F1** Ss. 169B-169G inserted (with effect in accordance with Sch. 21 para. 10(4) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 21 para. 4](#)

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](#)