



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART V

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

CHAPTER II

GIFTS OF BUSINESS ASSETS

^[F1]169F Meaning of “interest in a settlement” in sections 169B to 169D

- (1) For the purposes of this section and sections 169B to 169D, an individual is to be regarded as having an interest in a settlement if subsection (2)^[F2], (3) or (3A)] below applies.
 - (2) This subsection applies if—
 - (a) any property which ^[F3]is or] may at any time be comprised in the settlement, or
 - (b) any derived property,
is, or will or may become, payable to or applicable for the benefit of the individual or his spouse ^[F4]or civil partner] in any circumstances whatsoever.
 - (3) This subsection applies if the individual or his spouse ^[F5]or civil partner] enjoys a benefit deriving directly or indirectly from—
 - (a) any property which is comprised in the settlement, or
 - (b) any derived property.
- [This subsection applies if—
- ^{F6}(3A) (a) any property which is or may at any time be comprised in the settlement, or any derived property, is, or will or may become, payable to or applicable for the benefit of a child of the individual, at a time when that child is a dependent child of his, in any circumstances whatsoever, or

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- (b) a dependent child of the individual enjoys a benefit deriving directly or indirectly from any property which is comprised in the settlement or any derived property.]
- (4) The references in subsections (2) and (3) above to the spouse [^{F7}or civil partner] of the individual do not include—
- (a) a spouse [^{F8}or civil partner] from whom the individual is separated—
- (i) under an order of a court,
 - (ii) under a separation agreement, or
 - (iii) in such circumstances that the separation is likely to be permanent, or
- (b) the widow or widower [^{F9}or surviving civil partner] of the individual.
- [In this section—
- ^{F10}(4A) (a) “dependent child” means a child who—
- (i) is under the age of 18 years,
 - (ii) is unmarried, and
 - (iii) does not have a civil partner, and
- (b) “child” includes a stepchild.
- (4B) For the purposes of subsection (3A) above no account shall be taken of a term of a settlement relating to dependent children of an individual in respect of any time at which he has no dependent child.]
- (5) An individual is not to be regarded as having an interest in a settlement by virtue of subsection (2) above if and so long as none of the property which may at any time be comprised in the settlement, and no derived property, can become payable or applicable as mentioned in that provision except in the event of—
- [^{F11}(a) in the case of a marriage settlement or civil partnership settlement, the death of both parties to the marriage or civil partnership and of all or any of the children of the family of the parties to the marriage or civil partnership, or]
- (b) the death of a child of the individual where the child had become beneficially entitled to the property or any derived property at an age not exceeding 25.
- [In subsection (5) “child of the family”, in relation to parties to a marriage or civil
- ^{F12}(5A) partnership, means a child of one or both of them.]
- (6) In this section “derived property”, in relation to any property, means—
- (a) income from that property,
 - (b) property directly or indirectly representing—
 - (i) proceeds of that property, or
 - (ii) proceeds of income from that property, or
 - (c) income from property which is derived property by virtue of paragraph (b) above.]

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](#)
- F2** Words in s. 169F(1) substituted (with effect in accordance with Sch. 12 para. 4(2)(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 4\(1\)\(a\)](#)
- F3** Words in s. 169F(2)(a) inserted (with effect in accordance with Sch. 12 para. 4(2)(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 12 para. 4\(1\)\(b\)](#)

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- F4** Words in s. 169F(2) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **114(2)**
- F5** Words in s. 169F(3) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **114(3)**
- F6** S. 169F(3A) inserted (with effect in accordance with Sch. 12 para. 4(2)(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 12 para. 4(1)(c)**
- F7** Words in s. 169F(4) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **114(4)(a)**
- F8** Words in s. 169F(4)(a) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **114(4)(b)**
- F9** Words in s. 169F(4)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **114(4)(c)**
- F10** S. 169F(4A)(4B) inserted (with effect in accordance with Sch. 12 para. 4(2)(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 12 para. 4(1)(d)**
- F11** S. 169F(5)(a) substituted (with effect in accordance with reg. 1(6) of the amending S.I.) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **114(5)**
- F12** S. 169F(5A) inserted (with effect in accordance with reg. 1(6) of the amending S.I.) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **114(6)**

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](#)