



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VI U.K.

COMPANIES, OIL, INSURANCE ETC.

CHAPTER III U.K.

INSURANCE

213 Spreading of gains and losses under section 212. U.K.

- (1) Any chargeable gains or allowable losses which would otherwise accrue on disposals deemed by virtue of section 212 to have been made at the end of a company's accounting period shall be treated as not accruing to it, but instead—
- there shall be ascertained the difference (“the net amount”) between the aggregate of those gains and the aggregate of those losses, and
 - one-seventh of the net amount shall be treated as a chargeable gain or, where it represents an excess of losses over gains, as an allowable loss accruing to the company at the end of the accounting period, and
 - a further one-seventh shall be treated as a chargeable gain or, as the case may be, as an allowable loss accruing at the end of each succeeding accounting period until the whole amount has been accounted for.

[^{F1}(1A) Subsection (1) above shall not apply to chargeable gains or allowable losses except so far as they are gains or losses which—

- are referable]^{F2}, in accordance with Chapter 4 of Part 2 of the Finance Act 2012,] to basic life assurance and general annuity business ^{F3}...]

- (2) For any accounting period of less than one year, the fraction of one-seventh referred to in subsection (1)(c) above shall be proportionately reduced; and where this subsection has had effect in relation to any accounting period before the last for which subsection (1)(c) above applies, the fraction treated as accruing at the end of that last accounting period shall also be adjusted appropriately.

Status: Point in time view as at 01/01/2018.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 213 is up to date with all changes known to be in force on or before 15 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)

- (3) [^{F4}Subject to [^{F5}subsection (8H)] below,] Where—
- (a) the net amount for an accounting period of an insurance company represents an excess of gains over losses,
 - (b) the net amount for [^{F6}either of the next 2] accounting periods (after taking account of any reductions made by virtue of this [^{F7}section]) represents an excess of losses over gains,
 - (c) there is (after taking account of any such reductions) no net amount for [^{F8}the intervening accounting period (if there is one)],
- [^{F9}(ca) [^{F10}the intervening accounting period (if there is one) is not] an accounting period in which the company joined a group of companies, and]
- (d) within 2 years after the end of the later accounting period the company makes a claim for the purpose in respect of the whole or part of the net amount for that period,

the net amounts for both the earlier and the later period shall be reduced by the amount in respect of which the claim is made.

^{F11}(3A)

^{F12}(3B)

- (4) Subject to subsection (5) below, where a company ceases to carry on [^{F13}long-term] business before the end of the last of the accounting periods for which subsection (1) (c) above would apply in relation to a net amount, the fraction of that amount that is treated as accruing at the end of the accounting period ending with the cessation shall be such as to secure that the whole of the net amount has been accounted for.

[^{F14}(4ZA) Subsection (4) applies in relation to an overseas life insurance company with the insertion after “long-term business” of the words “in the United Kingdom through a permanent establishment”.]

[^{F15}(4ZB) Subject to subsection (5) below, where a company—

- (a) acquired units in a collective investment scheme where section 211B(2) applied in relation to that acquisition, and
- (b) other than by virtue of section 212, disposes of some or all of those units during the period of three years after the end of the accounting period of the company in which the acquisition took place,

the fraction of any net amount that is treated as accruing at the end of the accounting period of the company in which the disposal occurs is to be adjusted so as to secure that the whole of the chargeable gain or allowable loss attributable to the units disposed of which has been taken into account in determining the net amount has been accounted for; and fractions of the net amount treated as accruing at the end of subsequent accounting periods are to be adjusted accordingly.

(4ZC) For the purposes of subsection (4ZB) (notwithstanding the provisions of Chapter 1 of Part 4 (shares, securities, options etc))—

[^{F16}(za) [units in a collective investment scheme acquired as mentioned in subsection (4ZB)(a) at any time are treated as constituting a class of securities different from all other units in the scheme and from all other classes of securities arising as a result of this paragraph in respect of units acquired at different times,]

- (a) units in a collective investment scheme acquired as mentioned in subsection (4ZB)(a) are treated as being disposed of before other units in the

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scheme or, where there are different classes of unit in the scheme, units of the same class held by the company, and

- (b) where units are acquired as mentioned in subsection (4ZB)(a) at different times, units acquired at a later time are treated as disposed of before units acquired at an earlier time or, where there are different classes of unit in the scheme, units of the same class acquired at an earlier time.

^{F17}(4ZD)

^{F17}(4ZE)]

[^{F18}(4A) The following provisions apply where an insurance business transfer scheme has effect to transfer business which consists of the effecting or carrying out of contracts of long-term insurance from one person (“the transferor”) to another (“the transferee”).

- (5) Subject to subsections (5A) to (7) below, any chargeable gain or allowable loss which [^{F19}making the assumptions in subsection (5ZA) below] would have accrued to the transferor by virtue of subsection (1) above after the transfer shall instead be deemed to accrue to the transferee.]

[^{F20}(5ZA) The assumptions referred to in subsection (5) above are—

- (a) that the transferor had continued to carry on the business transferred after the transfer, and
- (b) where there is no accounting period of the transferor ending with the day of the transfer, that for the purposes of section 212 and this section, there was such an accounting period.]

[^{F21}(5A) Subsection (5) above shall not apply where the transferee is resident outside the United Kingdom unless the business to which the transfer relates is carried on by the transferee, for a period beginning with the time when the transfer takes effect, through a [^{F22}permanent establishment] in the United Kingdom.]

- (6) Where subsection (5) above has effect, the amount of the gain or loss accruing at the end of the first accounting period of the transferee ending after the day when the transfer takes place shall be calculated as if that accounting period began with the day after the transfer.
- (7) Where the transfer is of part only of the transferor’s [^{F23}long-term] business, subsection (5) above shall apply only to such part of any amount to which it would otherwise apply as is appropriate.
- (8) Any question arising as to the operation of subsection (7) above shall be determined [^{F24}in the same manner as an appeal, and both the transferor and the transferee shall be entitled to be a party to any proceedings].

[^{F25}(8A) Subsection (8B) below applies where—

- ^{F26}(a)
- (b) the transferor and the transferee are, at the time of the transfer, members of the same group,
- (c) the [^{F27}transferred assets] net amount for the accounting period of the transferor ending with the day of the transfer, or for the immediately preceding accounting period of the transferor, (“the relevant pre-transfer period of the transferor”) represents an excess of gains over losses,
- (d) the [^{F27}transferred assets] net amount for the accounting period of the transferee in which the transfer takes place, or for the immediately following

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accounting period of the transferee, (“the relevant post-transfer period of the transferee”) represents an excess of losses over gains (after taking account of any reductions made by virtue of this section), and

- (e) within 2 years after the end of the relevant post-transfer period of the transferee, the transferor and the transferee make a joint election in respect of the whole or part of the net amount for that period by notice to an officer of the Board.

(8B) Subject to subsections (8C) to (8E) and (8H) below, the [^{F28}transferred assets] net amounts for both the relevant pre-transfer period of the transferor and the relevant post-transfer period of the transferee shall be reduced by the amount in respect of which the election is made.

(8C) Subsection (8B) above does not apply if—

- (a) the relevant post-transfer period of the transferee is the accounting period immediately following that in which the transfer takes place, and
- (b) the relevant pre-transfer period of the transferor is the accounting period immediately preceding that ending with the day of the transfer.

(8D) If—

- (a) the relevant post-transfer period of the transferee is the accounting period immediately following that in which the transfer takes place, and
- (b) the relevant pre-transfer period of the transferor is the accounting period ending with the day of the transfer,

subsection (8B) above applies only if the conditions in subsection (8F) below are satisfied in relation to the accounting period of the transferee in which the transfer takes place.

(8E) If—

- (a) the relevant post-transfer period of the transferee is the accounting period in which the transfer takes place, and
- (b) the relevant pre-transfer period of the transferor is the accounting period immediately preceding that ending with the day of the transfer,

subsection (8B) above applies only if the conditions in subsection (8F) below are satisfied in relation to the accounting period of the transferor ending with the day of the transfer.

(8F) The conditions referred to in subsections (8D) and (8E) above are that—

- (a) there is (after taking account of any reductions made by virtue of this section) no [^{F29}transferred assets] net amount for the accounting period, and
- (b) the company whose accounting period it is did not join a group of companies in the accounting period.

(8G) A copy of the notice containing an election under subsection (8A)(e) above must accompany the tax return for the relevant post-transfer period of the transferee; and paragraphs 54 to 60 of Schedule 18 to the Finance Act 1998 (claims and elections for corporation tax purposes) do not apply to such an election.

(8H) [^{F30}Subsection (3) above has] effect where the company, or the transferee, in question joins a group of companies in the accounting period for which the net amount represents an excess of losses over gains as if a claim or election could not be made in respect of that net amount except to the extent (if any) [^{F31}that the net amount would

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still arise even if losses accruing after the date on which the company or transferee joined the group of companies were disregarded].

^{F32}(8HA) [Subsections (8A) and (8B) above have effect where the company, or the transferee, in question joins a group of companies in the accounting period for which the transferred assets net amount represents an excess of losses over gains as if a claim or election could not be made in respect of that net amount except to the extent (if any) that the transferred assets net amount would still arise even if losses accruing after the date on which the company or transferee joined the group of companies were disregarded.]

(8I) References in this section to a company joining a group of companies are to be construed in accordance with ^{F33}section 184C as if those references were contained in that section; and in subsection (8A)(b) above “group” has the same meaning as in that section].]

^{F34}(8J) “Transferred assets net amount” means a net amount ascertained in accordance with section 213(1)(a) but only in relation to those assets referred to in section 212(1) which are transferred by the insurance business transfer scheme from the transferor to the transferee.]

^{F35}(9)

^{F36}(10)

Textual Amendments

- F1** S. 213(1A) inserted (27.7.1993) by 1993 c. 37, s. 91(4)
- F2** Words in s. 213(1A) substituted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 16 para. 86(2)
- F3** Words in s. 213(1A) repealed (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 64, Sch. 27 Pt. 2(7) (with Sch. 7 Pt. 2)
- F4** Words in s. 213(3) inserted (with effect in accordance with s. 137(6) of the amending Act) by Finance Act 1998 (c. 36), s. 137(3)(a)
- F5** Words in s. 213(3) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(2)(a)
- F6** Words in s. 213(3)(b) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(2)(b)
- F7** Word in s. 213(3)(b) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(2)(b)
- F8** Words in s. 213(3)(c) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(2)(c)
- F9** S. 213(3)(ca) substituted for word at end of s. 213(3)(c) (with effect in accordance with s. 137(6) of the amending Act) by Finance Act 1998 (c. 36), s. 137(3)(b)
- F10** Words in s. 213(3)(ca) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(2)(d)
- F11** S. 213(3A) repealed (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(3), Sch. 43 Pt. 3(12)
- F12** S. 213(3B) repealed (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(3), Sch. 43 Pt. 3(12)
- F13** Word in s. 213(4) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), arts. 1(2)(a), 73(2)(a)
- F14** S. 213(4ZA) inserted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 16 para. 86(3)
- F15** S. 213(4ZB)-(4ZE) inserted (8.6.2013) by The Collective Investment Schemes (Tax Transparent Funds, Exchanges, Mergers and Schemes of Reconstruction) Regulations 2013 (S.I. 2013/1400), regs. 1(1), 6 (with reg. 1(2))

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- F16** S. 213(4ZC)(za) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Collective Investment Schemes and Offshore Funds (Amendment of the Taxation of Chargeable Gains Act 1992) Regulations 2017 (S.I. 2017/1204), regs. 1(1), **9(2)**
- F17** S. 213(4ZD)(4ZE) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Collective Investment Schemes and Offshore Funds (Amendment of the Taxation of Chargeable Gains Act 1992) Regulations 2017 (S.I. 2017/1204), regs. 1(1), **9(3)**
- F18** S. 213(4A)(5) substituted for s. 213(5) (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 16(4)**
- F19** Words in s. 213(5) substituted for the words "assuming that the transferor had continued to carry on the business transferred after the transfer" (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(2)**
- F20** S. 213(5ZA) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(3)**
- F21** S. 213(5A) inserted (with effect in accordance with s. 53(2) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 9 para. 4**
- F22** Words in s. 213(5A) substituted (with effect in accordance with s. 153(4) of the amending Act) by Finance Act 2003 (c. 14), **s. 153(1)(b)**
- F23** Word in s. 213(7) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), arts. 1(2)(a), **73(2)(a)**
- F24** Words in s. 213(8) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 181**
- F25** S. 213(8A)-(8I) inserted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 16(5)**
- F26** S. 213(8A)(a) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(4)(a)**
- F27** Words in s. 213(8A)(c)(d) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(4)(b)**
- F28** Words in s. 213(8B) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(5)**
- F29** Words in s. 213(8F)(a) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(6)**
- F30** Words in s. 213(8H) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(7)**
- F31** Words in s. 213(8H) substituted (with effect in accordance with s. 70(5) of the amending Act) by Finance Act 2006 (c. 25), **s. 70(5)(a)** (with s. 70(10)-(11))
- F32** S. 213(8HA) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(8)**
- F33** Words in s. 213(8I) substituted (with effect in accordance with s. 70(5) of the amending Act) by Finance Act 2006 (c. 25), **s. 70(5)(b)** (with s. 70(10)-(11))
- F34** S. 213(8J) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), **29(9)**
- F35** S. 213(9) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** Table(8) Note

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F36 S. 213(10) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008](#) (S.I. 2008/381), arts. 1(1), **29(10)**

Modifications etc. (not altering text)

- C1** S. 213 modified (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996](#) (c. 8), s. 105, **Sch. 15 para. 15(2)**
- C2** S. 213 modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Insurance Companies \(Capital Redemption Business\) \(Modification of the Corporation Tax Acts\) Regulations 1999](#) (S.I. 1999/498), regs. 1, **11(2)**
- C3** S. 213(1A) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005](#) (S.I. 2005/2014), regs. 1(1), **38**
- C4** S. 213(5) modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Friendly Societies \(Taxation of Transfers of Business\) Regulations 1995](#) (S.I. 1995/171), regs. 1, **4(1)(2)(e)**

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