



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VII

OTHER PROPERTY, BUSINESSES, INVESTMENTS ETC.

Private residences

[^{F1}222A Determination of main residence: non-resident CGT disposals

- (1) This section applies where—
- (a) an individual (“P”) makes a disposal of, or of an interest in—
 - (i) a dwelling-house, or part of a dwelling-house, which was at any time in P's period of ownership occupied by P as a residence, or
 - (ii) land (as mentioned in section 222(1)(b)) which P had for P's own occupation and enjoyment with that residence as its garden or grounds, and
 - [^{F2}(b) the disposal is—
 - (i) a disposal on which a residential property gain (as defined by Schedule 1B) accrues which is chargeable to capital gains tax because of section 1A(3)(b), or
 - (ii) a disposal on which a loss accrues but is one which, had a gain accrued, would be within sub-paragraph (i).]

In the remainder of this section the residence concerned is referred to as “the dwelling-house”.

- (2) So far as it is necessary for the purposes of section 222, P may determine, by a notice under this section, which of 2 or more residences (of which one is the dwelling-house) was P's main residence for any period within P's period of ownership of the dwelling-house.
- (3) A notice under this section may vary, as respects any period within P's period of ownership of the dwelling-house, a notice previously given under section 222(5)(a).

Changes to legislation: *Taxation of Chargeable Gains Act 1992, Section 222A is up to date with all changes known to be in force on or before 25 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*

See also subsections (4) and (7).

- (4) A notice under this section may not vary a notice previously given under section 222(5) (a) as respects any period for which the previous notice had the effect of determining whether or not a disposed of residence was P's main residence.
- (5) In subsection (4) “disposed of residence” means one of P's residences which was disposed of (in whole or in part) before the date of the disposal mentioned in subsection (1)(a).
- (6) A notice under this section—
- (a) must be given in [^{F3}the return under Schedule 2 to the Finance Act 2019] in respect of the disposal mentioned in subsection (1)(a), and
 - (b) may not subsequently be varied, whether by a notice under this section or section 222(5)(a).
- (7) Where a notice under this section affects both P and an individual (“X”) who was, in the period to which the notice relates (“the relevant period”), P's spouse or civil partner living with P—
- (a) in a case where each of P and X is required to make [^{F4}a return under Schedule 2 to the Finance Act 2019] in respect of the disposal of an interest in the dwelling-house, notice given by P under this section is effective as respects any part of the relevant period when P and X were living together as spouses or civil partners only if notice to the same effect is also given under this section by X in respect of that period;
 - (b) in any other case, notice given by P under this section is effective as respects any part of the relevant period when P and X were living together as spouses or civil partners only if it is accompanied by written notification from X agreeing to the terms of the notice in respect of that period.
- (8) Nothing in subsection (2) affects the application of section 222(5) in relation to P.]

Textual Amendments

- F1** Ss. 222A-222C inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 3](#)
- F2** S. 222A(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. 72](#)
- F3** Words in s. 222A(6)(a) substituted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 26\(2\)\(a\)](#)
- F4** Words in s. 222A(7)(a) substituted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 26\(2\)\(b\)](#)

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](#)