



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART II

GENERAL PROVISIONS RELATING TO COMPUTATION OF GAINS AND ACQUISITIONS AND DISPOSALS OF ASSETS

CHAPTER II

ASSETS AND DISPOSALS OF ASSETS

General provisions

23 Receipt of compensation and insurance money not treated as a disposal.

(1) If the recipient so claims, receipt of a capital sum within paragraph (a), (b), (c) or (d) of section 22(1) derived from an asset which is not lost or destroyed shall not be treated for the purposes of this Act as a disposal of the asset if—

- (a) the capital sum is wholly applied in restoring the asset, or
- (b) (subject to subsection (2) below), the capital sum is applied in restoring the asset except for a part of the capital sum which is not reasonably required for the purpose and which is small as compared with the whole capital sum, or
- (c) (subject to subsection (2) below), the amount of the capital sum is small, as compared with the value of the asset,

but, if the receipt is not treated as a disposal, all sums which would, if the receipt had been so treated, have been brought into account as consideration for that disposal in the computation of the gain shall be deducted from any expenditure allowable under Chapter III of this Part as a deduction in computing a gain on the subsequent disposal of the asset.

(2) If the allowable expenditure is less than the consideration for the disposal constituted by the receipt of the capital sum (or is nil)—

- (a) paragraphs (b) and (c) of subsection (1) above shall not apply, and

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 23 is up to date with all changes known to be in force on or before 04 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

- (b) if the recipient so elects (and there is any allowable expenditure)—
 - (i) the amount of the consideration for the disposal shall be reduced by the amount of the allowable expenditure, and
 - (ii) none of that expenditure shall be allowable as a deduction in computing a gain accruing on the occasion of the disposal or any subsequent occasion.

In this subsection “allowable expenditure” means expenditure which, immediately before the disposal, was attributable to the asset under paragraphs (a) and (b) of section 38(1).

- (3) If, in a case not falling within subsection (1)(b) above, a part of a capital sum within paragraph (a) or paragraph (b) of section 22(1) derived from an asset which is not lost or destroyed is applied in restoring the asset, then if the recipient so claims, that part of the capital sum shall not be treated as consideration for the disposal deemed to be effected on receipt of the capital sum but shall be deducted from any expenditure allowable under Chapter III of this Part as a deduction in computing a gain on the subsequent disposal of the asset.
- (4) If an asset is lost or destroyed and a capital sum received by way of compensation for the loss or destruction, or under a policy of insurance of the risk of the loss or destruction, is within one year of receipt, or such longer period as the inspector may allow, applied in acquiring an asset in replacement of the asset lost or destroyed the owner shall if he so claims be treated for the purposes of this Act—
 - (a) as if the consideration for the disposal of the old asset were (if otherwise of a greater amount) of such amount as would secure that on the disposal neither a gain nor a loss accrues to him, and
 - (b) as if the amount of the consideration for the acquisition of the new asset were reduced by the excess of the amount of the capital sum received by way of compensation or under the policy of insurance, together with any residual or scrap value, over the amount of the consideration which he is treated as receiving under paragraph (a) above.
- (5) A claim shall not be made under subsection (4) above if part only of the capital sum is applied in acquiring the new asset but if all of that capital sum except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the old asset is so applied, then the owner shall if he so claims be treated for the purposes of this Act—
 - (a) as if the amount of the gain so accruing were reduced to the amount of the said part (and, if not all chargeable gain, with a proportionate reduction in the amount of the chargeable gain), and
 - (b) as if the amount of the consideration for the acquisition of the new asset were reduced by the amount by which the gain is reduced under paragraph (a) of this subsection.
- [^{F1}(6) If a building (“the old building”) is destroyed or irreparably damaged, and all or part of a capital sum received by way of compensation for the destruction or damage, or under a policy of insurance of the risk of the destruction or damage, is applied by the recipient in constructing or otherwise acquiring a replacement building situated on other land (“the new building”), then for the purposes of subsections (4) and (5) above each of the old building and the new building shall be regarded as an asset separate from the land on which it is or was situated and the old building shall be treated as lost or destroyed.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 23 is up to date with all changes known to be in force on or before 04 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

- (7) For the purposes of subsection (6) above:
- (a) references to a building include references to any permanent or semi-permanent structure in the nature of a building; and
 - (b) the reference to a sum applied in acquiring the new building does not include a reference to a sum applied in acquiring the land on which the new building is situated; and
 - (c) all necessary apportionments shall be made of any expenditure, compensation or consideration, and the method of apportionment shall be such as is just and reasonable.
- (8) This section shall apply in relation to a wasting asset with the following modifications:
- (a) paragraphs (b) and (c) of subsection (1) above, and subsection (2) above, shall not apply; and
 - (b) in subsections (1) and (3) above, the amount of the expenditure from which the deduction is to be made shall be the amount which would have been allowable under Chapter III of this Part if the asset had been disposed of immediately after the application of the capital sum.]

Textual Amendments

- F1** S. 23(6)(7)(8) substituted for s. 23(6) (with effect in accordance with Sch. 39 para. 3(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 39 para. 3(2)**

Modifications etc. (not altering text)

- C1** S. 23(4) modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), **Sch. 24 para. 3(1)(3)**
- C2** S. 23(4) modified (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), **Sch. 4 para. 3(1)-(3)** (with [Sch. 4 para. 14](#)); [S.I. 1994/2189](#), art. 2, Sch.
- C3** S. 23(4)(5) modified (24.7.1996) by [Broadcasting Act 1996 \(c. 55\)](#), s. 149(1), **Sch. 7 para. 10(1)(3)** (with [Sch. 7 para. 9\(1\)](#))
- C4** S. 23(5) modified (retrospective to 11.1.1994) by [Finance Act 1994 \(c. 9\)](#), s. 252(3), **Sch. 24 para. 3(2)(3)**
- C5** S. 23(5) modified (19.9.1994) by [Coal industry Act 1994 \(c. 21\)](#), s. 68(4), **Sch. 4 para. 3(1)-(3)** (with [Sch. 4 para. 14](#)); [S.I. 1994/2189](#), art. 2, Sch.

Changes to legislation:

Taxation of Chargeable Gains Act 1992, Section 23 is up to date with all changes known to be in force on or before 04 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.

[View outstanding changes](#)

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](#)