



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VII

OTHER PROPERTY, BUSINESSES, INVESTMENTS ETC.

[^{F1}Employee-ownership trusts

[^{F1}236K Further provision about the equality requirement

- (1) The requirement in section 236J(1)(a) (“the equality requirement”) is not infringed by the trusts by reason only that they—
 - (a) permit the settled property to be applied, where an eligible employee has died, as if a surviving spouse, civil partner or dependant of the deceased person were the eligible employee (and continued to be employed) for a period of 12 months, or such shorter period as the trusts may provide, starting with the time of death,
 - (b) prevent the settled property being applied for the benefit of persons who have not been eligible employees for a continuous period of 12 months or such shorter period as the trusts may provide,
 - (c) permit the trustees to comply with a written request from a person that the trustees do not apply any of the settled property for the benefit of that person, or
 - (d) prevent the settled property being applied for the benefit of all persons who are eligible employees by reason only that they are office-holders.
- (2) The equality requirement is not infringed by the trusts by reason only that, in addition to requiring the settled property to be applied for the benefit of all the eligible employees on the same terms, they also permit the settled property to be applied for charitable purposes.
- (3) Subject to subsections (1) and (2), the equality requirement is infringed by the trusts if they permit the settled property to be applied by reference to factors other than those mentioned in subsection (4).

Changes to legislation: *Taxation of Chargeable Gains Act 1992, Section 236K is up to date with all changes known to be in force on or before 13 June 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*

- (4) The equality requirement is not infringed by the trusts by reason only that they permit the settled property to be applied for the benefit of all the eligible employees by reference to—
- (a) an eligible employee’s remuneration,
 - (b) an eligible employee’s length of service, or
 - (c) hours worked by an eligible employee;
- but this is subject to subsections (5) and (6).
- (5) The equality requirement is infringed by the trusts if they permit any of the settled property to be applied on terms such that some (but not all) eligible employees receive no benefits (other than by virtue of subsection (1)(b), (c) and (d)).
- (6) If any of the settled property is applied by reference to more than one of the factors mentioned in subsection (4), the equality requirement is infringed unless—
- (a) each factor gives rise to a separate entitlement related to the level of remuneration, length of service or (as the case may be) hours worked, and
 - (b) the total entitlement is the sum of those separate entitlements.
- (7) “Eligible employee” has the same meaning as in section 236J.
- (8) In this section, references to the settled property include references to any income arising from it.]

Textual Amendments

- F1** Ss. 236H-236U and cross-heading inserted (with effect in accordance with [Sch. 37 para. 2](#) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 1](#) (with [Sch. 37 paras. 3, 4](#))

Modifications etc. (not altering text)

- C1** S. 236K applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 75A(3) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 14\(1\)\(2\)](#))
- C2** S. 236K applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 86(3A)(b) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 15\(3\)\(4\)](#))
- C3** Ss. 236J, 236K applied by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 312E(2)(b) (as inserted (with effect in accordance with [Sch. 37 para. 8](#) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 5](#))
- C4** S. 236K applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 28A(2) (as inserted (with effect in accordance with [Sch. 37 para. 11\(2\)](#) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 11\(1\)](#))
- C5** S. 236K applied (with modifications) by Inheritance Tax Act 1984 (c. 51), s. 13A(2) (as inserted (with effect in accordance with [Sch. 37 para. 10\(2\)](#) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 10\(1\)](#))

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](#)