



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VII

OTHER PROPERTY, BUSINESSES, INVESTMENTS ETC.

Superannuation funds, profit sharing schemes, employee trusts etc.

238 Approved profit sharing and share option schemes.

- (1) Notwithstanding anything in a profit sharing scheme approved under Schedule 9 of the Taxes Act or in paragraph 2(2) of that Schedule or in the trust instrument relating to that scheme, for the purposes of capital gains tax a person who is a participant in relation to that scheme shall be treated as absolutely entitled to his shares as against the trustees of the scheme.
- (2) For the purposes of capital gains tax—
 - (a) no deduction shall be made from the consideration for the disposal of any shares by reason only that an amount determined under section 186 or 187 of or Schedule 9 or 10 to the Taxes Act [^{F1}counts as employment income (or was chargeable to income tax for the year 2002-03 or an earlier year of assessment)] under section 186(3) or (4) of that Act;
 - (b) any charge to income tax by virtue of section 186(3) of that Act shall be disregarded in determining whether a distribution is a capital distribution within the meaning of section 122(5)(b);
 - (c) nothing in any provision of section 186 or 187 of or Schedule 9 or 10 to that Act with respect to—
 - (i) the order in which any of a participant's shares are to be treated as disposed of for the purposes of those provisions as they have effect in relation to profit sharing schemes, or
 - (ii) the shares in relation to which an event is to be treated as occurring for any such purpose,

Status: Point in time view as at 06/04/2003.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Section 238 is up to date with all changes known to be in force on or before 01 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)

shall affect the rules applicable to the computation of a gain accruing on a part disposal of a holding of shares or other securities which were acquired at different times; and

(d) a gain accruing on an appropriation of shares to which section 186(11) of that Act applies shall not be a chargeable gain.

(3) In this section “participant” and “the trust instrument” have the meanings given by section 187 of the Taxes Act.

^{F2}(4)

Textual Amendments

- F1** Words in s. 238(2)(a) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 6 para. 215** (with [Sch. 7](#))
- F2** S. 238(4) repealed (with effect in accordance with s. 112(2)(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 112(2), **Sch. 41 Pt. V(5)**

Status:

Point in time view as at 06/04/2003.

Changes to legislation:

Taxation of Chargeable Gains Act 1992, Section 238 is up to date with all changes known to be in force on or before 01 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.