



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VII

OTHER PROPERTY, BUSINESSES, INVESTMENTS ETC.

Superannuation funds, profit sharing schemes, employee trusts etc.

[^{F1}239Z] Relief for disposals by trustees of employee trusts

- (1) Any gain accruing to trustees on the disposal of an asset comprised in the settled property of an employee trust shall not be a chargeable gain where the disposal is—
 - (a) a disposal to a beneficiary, or
 - (b) a deemed disposal under section 71(1),if the conditions in subsection (2) are satisfied.
- (2) The conditions are that—
 - (a) an amount that is equal to or exceeds the market value of the asset is chargeable to income tax as employment income within the meaning of section 7 of ITEPA 2003 (meaning of “employment income” etc);
 - (b) neither the beneficiary nor (if different) the person who is liable for the income tax is an excluded person;
 - (c) no actual consideration (as opposed to consideration deemed to be given by any enactment relating to the taxation of chargeable gains) is given directly or indirectly to the trustees for the asset; and
 - (d) Schedule 7D does not to any extent prevent the gain being a chargeable gain.
- (3) The following are excluded persons—
 - (a) a participator in a company, shares in or securities of which are comprised in the settled property;
 - (b) a participator in a close company that has provided any property that has become comprised in the settled property;

Changes to legislation: *Taxation of Chargeable Gains Act 1992, Section 239ZA is up to date with all changes known to be in force on or before 17 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*

- (c) a person who was a participator in a company within paragraph (a) or (b) at any time during the 10 years before the shares, securities or other property concerned became comprised in the settled property;
 - (d) a person connected with a person within any of paragraphs (a) to (c).
- (4) For the purposes of subsection (3)—
- (a) “participator” has the same meaning as in section 239 and shall, in the case of a company which is not a close company, be construed as a person who would be a participator in the company if it were a close company, but
 - (b) a person is not a participator unless either—
 - (i) that person is entitled to, or entitled to rights enabling the acquisition of, 5% or more of the share capital of the company or any class of shares in the company, or
 - (ii) that person would be entitled to 5% or more of the company’s assets on winding-up.
- (5) In determining whether a person is connected with another for the purposes of this section, section 286 shall apply as if subsection (8) of that section also mentioned uncle, aunt, nephew and niece.
- (6) In this section—
- “beneficiary” means a person within paragraph (a) or (b) of section 86(1) of the Inheritance Tax Act 1984 (trusts for benefit of employees);
 - “close company” includes a company which, if resident in the United Kingdom, would be a close company as defined in section 288;
 - “employee trust” means a settlement of property to which section 86 of the Inheritance Tax Act 1984 applies or would apply but for subsection (3) of that section;
 - “market value” means the market value for the purposes of capital gains tax (as to which see section 272).]

Textual Amendments

- F1** S. 239ZA inserted (with effect in accordance with art. 11(4) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), **11(3)**

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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](#)