
EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies £5,800 as the amount which, under section 5 of the Capital Gains Tax Act 1979 (“section 5”) (as amended by section 77 of the Finance Act 1980, section 80 of the Finance Act 1982, Part VIII of Schedule 14 to the Finance Act 1988 (c. 39), section 72 of the Finance Act 1990 (c. 29) and S.I. 1991/736) is the exempt amount for the year 1992–93 unless Parliament otherwise determines. The exempt amount for the year 1991–92 was specified by S.I. 1991/736 as £5,500. The amount of £5,800 is the amount for 1991–92 increased by the amount of the percentage increase in the retail prices index for December 1991 over that for December 1990. The amount has been rounded up to the nearest £100 in accordance with section 5(1B).

The “retail prices index” is defined in section 833(2) of the Income and Corporation Taxes Act 1988 (c. 1) (“the 1988 Act”), as amended by paragraph 5 of Schedule 2 to the Transfer of Functions (Economic Statistics) Order 1989 (S.I. 1989/992) as the “general index of retail prices (for all items) published by the Central Statistical Office of the Chancellor of the Exchequer”. This definition is applied for capital gains tax purposes by section 155(1A) of the Capital Gains Tax Act 1979 (“the 1979 Act”) (inserted by paragraph 27 of Schedule 29 to the 1988 Act). The retail prices index for December 1990 is 129.9 and for December 1991 135.7 (based on January 1987 as 100). (Table 6.1 on page S.58 of the February 1992 number of the *Employment Gazette*, the official journal of the Department of Employment.)

The exempt amount has several applications for capital gains tax. Under section 5(1) an individual’s gains for a year of assessment are chargeable to tax only to the extent that they exceed the exempt amount. Under paragraphs 4 to 6 of Schedule 1 to the 1979 Act (“paragraphs 4 to 6”) (as amended by sections 77 and 78 of the Finance Act 1980, section 89 of the Finance Act 1981 (c. 35), section 80 of the Finance Act 1982, paragraph 49 of Schedule 4 to the Mental Health Act 1983 (c. 20) and paragraphs 15 and 32 of Schedule 29 to the 1988 Act) section 5(1) also applies, by virtue of section 5(6) of the 1979 Act and subject to detailed rules, to personal representatives, trustees of settlements for mentally disabled persons or persons in receipt of attendance allowance, and, as to one half of the exempt amount, trustees of other settlements.

Under section 5(5) an individual may, if appropriate, and unless an Inspector otherwise requires, satisfy his obligation to make a return of chargeable gains by stating that his gains do not exceed the exempt amount for the year and that the proceeds of his disposals in the year do not exceed an amount equal to twice the exempt amount. Under paragraphs 4 to 6, section 5(5) also applies to personal representatives and, subject to detailed rules, to trustees.