



# Finance Act 1989

## 1989 CHAPTER 26

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER III

#### CAPITAL GAINS

##### *Non-residents etc.*

#### **129 Non residents: roll-over relief**

- (1) Section 115 of the Capital Gains Tax Act 1979 (roll-over relief) shall not apply in the case of a person if the old assets are chargeable assets in relation to him at the time they are disposed of, unless the new assets are chargeable assets in relation to him immediately after the time they are acquired.
- (2) Subsection (1) above shall not apply where—
  - (a) the person acquires the new assets after he has disposed of the old assets, and
  - (b) immediately after the time they are acquired the person is resident or ordinarily resident in the United Kingdom.
- (3) Subsection (2) above shall not apply where immediately after the time the new assets are acquired—
  - (a) the person is a dual resident, and
  - (b) the new assets are prescribed assets.
- (4) This section shall apply where the disposal of the old assets or the acquisition of the new assets (or both) takes place on or after 14th March 1989.
- (5) But where the acquisition of the new assets takes place before 14th March 1989 and the disposal of the old assets takes place on or after that date, this section shall not apply

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*Status: This is the original version (as it was originally enacted).*

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if the disposal of the old assets takes place within twelve months of the acquisition of the new assets or such longer period as the Board may by notice in writing allow.

(6) For the purposes of this section an asset is at any time a chargeable asset in relation to a person if, were it to be disposed of at that time, any chargeable gains accruing to him on the disposal—

- (a) would be gains in respect of which he would be chargeable to capital gains tax under section 12(1) of the Capital Gains Tax Act 1979 (non-resident with United Kingdom branch or agency), or
- (b) would form part of his chargeable profits for corporation tax purposes by virtue of section 11(2)(b) of the Taxes Act 1988 (non-resident companies).

(7) In this section—

“dual resident” means a person who is resident or ordinarily resident in the United Kingdom and falls to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom;

“double taxation relief arrangements” means arrangements having effect by virtue of section 788 of the Taxes Act 1988 (as extended to capital gains tax by section 10 of the Capital Gains Tax Act 1979);

“prescribed asset”, in relation to a dual resident, means an asset in respect of which, by virtue of the asset being of a description specified in any double taxation relief arrangements, he falls to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to him on a disposal.

(8) In this section—

- (a) “the old assets” and “the new assets” have the same meanings as in section 115 of the Capital Gains Tax Act 1979,
- (b) references to disposal of the old assets include references to disposal of an interest in them, and
- (c) references to acquisition of the new assets include references to acquisition of an interest in them or to entering into an unconditional contract for the acquisition of them.