Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART I

CAPITAL GAINS TAX AND CORPORATION TAX ON CHARGEABLE GAINS

Capital gains tax

2 Persons and gains chargeable to capital gains tax, and allowable losses

(1) Subject to any exceptions provided by this Act, and without prejudice to sections 10 and 276, a person shall be chargeable to capital gains tax in respect of chargeable gains accruing to him in a year of assessment during any part of which he is resident in the United Kingdom, or during which he is ordinarily resident in the United Kingdom.

(2) Capital gains tax shall be charged on the total amount of chargeable gains accruing to the person chargeable in the year of assessment, after deducting—

(a) any allowable losses accruing to that person in that year of assessment, and

(b) so far as they have not been allowed as a deduction from chargeable gains accruing in any previous year of assessment, any allowable losses accruing to that person in any previous year of assessment (not earlier than the year 1965-66).

(3) Except as provided by section 62, an allowable loss accruing in a year of assessment shall not be allowable as a deduction from chargeable gains accruing in any earlier year of assessment, and relief shall not be given under this Act more than once in respect of any loss or part of a loss, and shall not be given under this Act if and so far as relief has been or may be given in respect of it under the Income Tax Acts.

3 Annual exempt amount

(1) An individual shall not be chargeable to capital gains tax in respect of so much of his taxable amount for any year of assessment as does not exceed the exempt amount for the year.

(2) Subject to subsection (3) below, the exempt amount for any year of assessment shall be £5,500.

(3) If the retail prices index for the month of December preceding a year of assessment is higher than it was for the previous December, then, unless Parliament otherwise determines, subsection (2) above shall have effect for that year as if for the amount specified in that subsection as it applied for the previous year (whether by virtue of this subsection or otherwise) there were substituted an amount arrived at by increasing the amount for the previous year by the same percentage as the percentage increase in the retail prices index and, if the result is not a multiple of £100, rounding it up to the nearest amount which is such a multiple.

(4) The Treasury shall, before each year of assessment, make an order specifying the amount which by virtue of this section is the exempt amount for that year.

(5) For the purposes of this section an individual's taxable amount for a year of assessment is the amount on which he is chargeable under section 2(2) for that year but—

(a) where the amount of chargeable gains less allowable losses accruing to an individual in any year of assessment does not exceed the exempt amount for the year, no deduction from that amount shall be made for that year in respect of allowable losses carried forward from a previous year or carried back from a subsequent year in which the individual dies, and

(b) where the amount of chargeable gains less allowable losses accruing to an individual in any year of assessment exceeds the exempt amount for the year, the deduction from that amount for that year in respect of allowable losses carried forward from a previous year or carried back from a subsequent year in which the individual dies shall not be greater than the excess.

(6) Where in a year of assessment—

(a) the amount of chargeable gains accruing to an individual does not exceed the exempt amount for the year, and

(b) the aggregate amount or value of the consideration for all the disposals of assets made by him (other than disposals gains accruing on which are not chargeable gains) does not exceed an amount equal to twice the exempt amount for the year,

a statement to the effect of paragraphs (a) and (b) above shall, unless the inspector otherwise requires, be sufficient compliance with any notice under section 8 of the Management Act requiring the individual to make a return of the chargeable gains accruing to him in that year.

(7) For the year of assessment in which an individual dies and for the next 2 following years, subsections (1) to (6) above shall apply to his personal representatives as they apply to an individual.

(8) Schedule 1 shall have effect as respects the application of this section to trustees.

4 Rates of capital gains tax

(1) Subject to the provisions of this section and section 5, the rate of capital gains tax in respect of gains accruing to a person in a year of assessment shall be equivalent to the basic rate of income tax for the year.

(2) If income tax is chargeable at the higher rate in respect of any part of the income of an individual for a year of assessment, the rate of capital gains tax in respect of gains accruing to him in the year shall be equivalent to the higher rate.

(3) If no income tax is chargeable at the higher rate in respect of the income of an individual for a year of assessment, but the amount on which he is chargeable to capital gains tax exceeds the unused part of his basic rate band, the rate of capital gains tax on the excess shall be equivalent to the higher rate of income tax for the year.

(4) The reference in subsection (3) above to the unused part of an individual's basic rate band is a reference to the amount by which the basic rate limit exceeds his total income (as reduced by any deductions made in accordance with the Income Tax Acts).

5 Accumulation and discretionary settlements

(1) The rate of capital gains tax in respect of gains accruing to trustees of an accumulation or discretionary settlement in a year of assessment shall be equivalent to the sum of the basic and additional rates of income tax for the year.

(2) For the purposes of subsection (1) above a trust is an accumulation or discretionary settlement where—

(a) all or any part of the income arising to the trustees in the year of assessment is income to which section 686 of the Taxes Act (liability to income tax at the additional rate) applies, or

(b) all the income arising to the trustees in the year of assessment is treated as the income of the settlor, but that section would apply to it if it were not so treated, or

(c) all the income arising to the trustees in the year of assessment is applied in defraying expenses of the trustees in that year, but that section would apply to it if it were not so applied, or

(d) no income arises to the trustees in the year of assessment, but that section would apply if there were income arising to the trustees and none of it were treated as the income of the settlor or applied as mentioned in paragraph (c) above.

6 Other special cases

(1) References in section 4 to income tax chargeable at the higher rate include references to tax chargeable by virtue of section 353(4), 369(3A), 683(1) or 684(1) of the Taxes Act (restriction to basic rate of relief on certain interest etc. and settlements) in respect of excess liability (that is, liability to income tax over what it would be if all income tax were charged at the basic rate to the exclusion of any higher rate); and

(a) where for any year of assessment a deduction is by virtue of section 353(4) or 369(3A) not allowed in computing the total income of a person for the purposes of excess liability then, whether or not he is chargeable to tax otherwise than at the basic rate, that deduction shall not be allowed for the purposes of section 4(4);

(b) where for any year of assessment income is treated by virtue of section 683(1) or 684(1) as the income of a person for the purposes of excess liability then, whether or not he is chargeable to tax otherwise than at the basic rate, it shall also be treated as his income for the purposes of section 4(4).

(2) Where for any year of assessment—

(a) by virtue of section 549(2) of the Taxes Act (gains under life policy or life annuity contract) a deduction of an amount is made from a person's total income for the purposes of excess liability, or

(b) by virtue of section 683(1) or 684(1) of that Act an amount of a person's income is treated as not being his income for those purposes, or

(c) by virtue of section 699(1) of that Act (income accruing before death) the residuary income of an estate is treated as reduced so as to reduce a person's income by any amount for those purposes,

section 4(4) shall have effect as if his income for the year were reduced by that amount.

(3) Where by virtue of section 547(1)(a) of the Taxes Act (gains from insurance policies etc.) a person's total income for a year of assessment is deemed to include any amount or amounts—

(a) section 4(4) shall have effect as if his total income included not the whole of the amount or amounts concerned but only the appropriate fraction within the meaning of section 550(3) of that Act, and

(b) if relief is given under section 550 of that Act and the calculation required by section 550(2)(b) does not involve the higher rate of income tax, section 4(2) and (3) shall have effect as if no income tax were chargeable at the higher rate in respect of his income.

(4) Nothing in subsection (1) above shall be taken to reduce, and nothing in subsections (2) and (3) above shall be taken to increase, the amount of the deduction which a person is entitled to make from his total income by virtue of any provision of Chapter I of Part VII of the Taxes Act which limits any allowance by reference to the level of his total income.

7 Time for payment of tax

Capital gains tax assessed on any person in respect of gains accruing in any year shall be payable by that person on or before 1st December following the end of that year, or at the expiration of a period of 30 days beginning with the date of the issue of the notice of assessment, whichever is the later.