



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART III

INDIVIDUALS, PARTNERSHIPS, TRUSTS AND COLLECTIVE INVESTMENT SCHEMES

CHAPTER III

COLLECTIVE INVESTMENT SCHEMES AND INVESTMENT TRUSTS

99 Application of Act to unit trust schemes

- (1) This Act shall apply in relation to any unit trust scheme as if—
 - (a) the scheme were a company,
 - (b) the rights of the unit holders were shares in the company, and
 - (c) in the case of an authorised unit trust, the company were resident and ordinarily resident in the United Kingdom,except that nothing in this section shall be taken to bring a unit trust scheme within the charge to corporation tax on chargeable gains.
- (2) Subject to subsection (3) below, in this Act—
 - (a) “unit trust scheme” has the same meaning as in the Financial Services Act 1986,
 - (b) “authorised unit trust” has the meaning given by section 468(6) of the Taxes Act.
- (3) The Treasury may by regulations provide that any scheme of a description specified in the regulations shall be treated as not being a unit trust scheme for the purposes of this Act; and regulations under this section may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.

100 Exemption for authorised unit trusts etc

- (1) Gains accruing to an authorised unit trust, an investment trust or a court investment fund shall not be chargeable gains.
- (2) If throughout a year of assessment all the issued units in a unit trust scheme (other than an authorised unit trust) are assets such that any gain accruing if they were disposed of by the unit holder would be wholly exempt from capital gains tax or corporation tax (otherwise than by reason of residence) gains accruing to the unit trust scheme in that year of assessment shall not be chargeable gains.
- (3) In this Act “court investment fund” means a fund established under section 42 of the Administration of Justice Act 1982.

101 Transfer of company’s assets to investment trust

- (1) Where section 139 has applied on the transfer of a company’s business (in whole or in part) to a company which at the time of the transfer was not an investment trust, then if—
 - (a) at any time after the transfer the company becomes for an accounting period an investment trust, and
 - (b) at the beginning of that accounting period the company still owns any of the assets of the business transferred,the company shall be treated for all the purposes of this Act as if immediately after the transfer it had sold, and immediately reacquired, the assets referred to in paragraph (b) above at their market value at that time.
- (2) Notwithstanding any limitation on the time for making assessments, an assessment to corporation tax chargeable in consequence of subsection (1) above may be made at any time within 6 years after the end of the accounting period referred to in subsection (1) above, and where under this section a company is to be treated as having disposed of, and reacquired, an asset of a business, all such recomputations of liability in respect of other disposals and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section shall be carried out.

102 Collective investment schemes with property divided into separate parts

- (1) Subsection (2) below applies in the case of arrangements which constitute a collective investment scheme and under which—
 - (a) the contributions of the participants, and the profits or income out of which payments are to be made to them, are pooled in relation to separate parts of the property in question, and
 - (b) the participants are entitled to exchange rights in one part for rights in another.
- (2) If a participant exchanges rights in one such part for rights in another, section 127 shall not prevent the exchange constituting a disposal and acquisition for the purposes of this Act.
- (3) The reference in subsection (2) above to section 127—
 - (a) includes a reference to that section as applied by section 132, but
 - (b) does not include a reference to section 127 as applied by section 135;

and in this section “participant” shall be construed in accordance with the Financial Services Act 1986.

103 Restriction on availability of indexation allowance

- (1) An indexation allowance shall not be made in the case of a disposal if each of the 2 conditions set out below is fulfilled.
- (2) The first condition is that the disposal is of rights in property to which arrangements which constitute a collective investment scheme relate.
- (3) Subject to subsection (4) below, the second condition is that, at some time in the relevant ownership period, not less than 90 per cent. of the market value (at that time) of the investment property then falling within the arrangements was represented by—
 - (a) non-chargeable assets,
 - (b) shares in a building society, or
 - (c) such assets and such shares.
- (4) In a case where—
 - (a) the arrangements are ones under which the contributions of the participants, and the profits or income out of which payments are to be made to them, are pooled in relation to separate parts of the property in question, and
 - (b) the disposal is of rights in property falling within a separate part,subsection (3) above shall have effect as if the reference to the arrangements were to the separate part.
- (5) For the purposes of subsection (3) above the relevant ownership period is the period which begins with the later of—
 - (a) the earliest date on which any relevant consideration was given for the acquisition of the rights, and
 - (b) 1st April 1982,and ends with the day on which the disposal is made.
- (6) For the purposes of subsection (3) above investment property is all property other than cash awaiting investment.
- (7) For the purposes of subsection (3) above an asset is a non-chargeable asset if, were it to be disposed of—
 - (a) at the time the rights are disposed of, and
 - (b) by a person resident in the United Kingdom,any gain accruing on the disposal would not be a chargeable gain.
- (8) For the purposes of subsection (5) above relevant consideration is consideration which, assuming the application of Chapter III of Part II to the disposal of the rights, would fall to be taken into account in determining the amount of the gain or loss accruing on the disposal, whether that consideration was given by or on behalf of the person making the disposal or by or on behalf of a predecessor in title of his whose acquisition cost represents (directly or indirectly) the whole or any part of the acquisition cost of the person making the disposal.