



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART V

#### TRANSFER OF BUSINESS ASSETS

#### CHAPTER I

#### GENERAL PROVISIONS

#### *Retirement relief*

#### **163 Relief for disposals by individuals on retirement from family business**

- (1) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 6, in any case where a material disposal of business assets is made by an individual who, at the time of the disposal—
  - (a) has attained the age of 55, or
  - (b) has retired on ill-health grounds below the age of 55.
- (2) For the purposes of this section and Schedule 6, a disposal of business assets is—
  - (a) a disposal of the whole or part of a business, or
  - (b) a disposal of one or more assets which, at the time at which a business ceased to be carried on, were in use for the purposes of that business, or
  - (c) a disposal of shares or securities of a company (including a disposal of an interest in shares which a person is treated as making by virtue of section 122), and the question whether such a disposal is a material disposal shall be determined in accordance with the following provisions of this section.
- (3) A disposal of the whole or part of a business is a material disposal if, throughout a period of at least one year ending with the date of the disposal, the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time the business is owned by the individual making the disposal or—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the business is owned by a company—
    - (i) which is a trading company, and
    - (ii) which is either that individual's family company or a member of a trading group of which the holding company is that individual's family company; and
  - (b) that individual is a full-time working director of that company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.
- (4) A disposal of assets such as is mentioned in subsection (2)(b) above is a material disposal if—
- (a) throughout a period of at least one year ending with the date on which the business ceased to be carried on the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time either the business was owned by the individual making the disposal or paragraphs (a) and (b) of subsection (3) above apply; and
  - (b) on or before the date on which the business ceased to be carried on, the individual making the disposal had either attained the age of 55 or retired on ill-health grounds below that age; and
  - (c) the date on which the business ceased to be carried on falls within the permitted period before the date of the disposal.
- (5) A disposal of shares or securities of a company (including such a disposal of an interest in shares as is mentioned in subsection (2)(c) above) is a material disposal if, throughout a period of at least one year ending with the operative date, the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time—
- (a) the individual making the disposal owns the business which, at the date of the disposal, is owned by the company or, if the company is the holding company of a trading group, by any member of the group; or
  - (b) the company is the individual's family company and is either a trading company or the holding company of a trading group and the individual is a full-time working director of the company or, if the company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association;
- and, except where subsection (6) or subsection (7) below applies, the operative date for the purposes of this subsection is the date of the disposal.
- (6) In any case where—
- (a) within the permitted period before the date of the disposal referred to in subsection (5) above, the company concerned either ceased to be a trading company without continuing to be or becoming a member of a trading group or ceased to be a member of a trading group without continuing to be or becoming a trading company, and
  - (b) on or before the date of that cessation, the individual making the disposal attained the age of 55 or retired on ill-health grounds below that age,
- then, subject to subsection (7) below, the operative date for the purposes of subsection (5) above is the date of the cessation referred to in paragraph (a) above; and, where this subsection applies, the reference in subsection (5)(a) above to the date of the disposal shall also be construed as a reference to the date of that cessation.

- (7) If, throughout a period which ends on the date of the disposal referred to in subsection (5) above or, if subsection (6) above applies, on the date of the cessation referred to in paragraph (a) of that subsection and which begins when the individual concerned ceased to be a full-time working director of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association—
- (a) the company concerned was his family company and either a trading company or the holding company of a trading group, and
  - (b) he was a director of the company concerned or, as the case may be, of one or more members of the group or association and, in that capacity, devoted at least 10 hours per week (averaged over the period) to the service of the company or companies in a technical or managerial capacity,
- the operative date for the purposes of subsection (5) above is the date on which the individual ceased to be a full-time working director as mentioned above.
- (8) For the purposes of this section—
- (a) any reference to the disposal of the whole or part of a business by an individual includes a reference to the disposal by him of his interest in the assets of a partnership carrying on the business; and
  - (b) subject to paragraph (a) above, at any time when a business is carried on by a partnership, the business shall be treated as owned by each individual who is at that time a member of the partnership.
- (9) Part I of Schedule 6 shall have effect for the interpretation of this section as well as of that Schedule.