



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART II

#### GENERAL PROVISIONS RELATING TO COMPUTATION OF GAINS AND ACQUISITIONS AND DISPOSALS OF ASSETS

### CHAPTER II

#### ASSETS AND DISPOSALS OF ASSETS

#### *General provisions*

### **23 Receipt of compensation and insurance money not treated as a disposal**

(1) If the recipient so claims, receipt of a capital sum within paragraph (a), (b), (c) or (d) of section 22(1) derived from an asset which is not lost or destroyed shall not be treated for the purposes of this Act as a disposal of the asset if—

- (a) the capital sum is wholly applied in restoring the asset, or
- (b) (subject to subsection (2) below), the capital sum is applied in restoring the asset except for a part of the capital sum which is not reasonably required for the purpose and which is small as compared with the whole capital sum, or
- (c) (subject to subsection (2) below), the amount of the capital sum is small, as compared with the value of the asset,

but, if the receipt is not treated as a disposal, all sums which would, if the receipt had been so treated, have been brought into account as consideration for that disposal in the computation of the gain shall be deducted from any expenditure allowable under Chapter III of this Part as a deduction in computing a gain on the subsequent disposal of the asset.

(2) If the allowable expenditure is less than the consideration for the disposal constituted by the receipt of the capital sum (or is nil)—

- (a) paragraphs (b) and (c) of subsection (1) above shall not apply, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) if the recipient so elects (and there is any allowable expenditure)—
  - (i) the amount of the consideration for the disposal shall be reduced by the amount of the allowable expenditure, and
  - (ii) none of that expenditure shall be allowable as a deduction in computing a gain accruing on the occasion of the disposal or any subsequent occasion.

In this subsection “allowable expenditure” means expenditure which, immediately before the disposal, was attributable to the asset under paragraphs (a) and (b) of section 38(1).

- (3) If, in a case not falling within subsection (1)(b) above, a part of a capital sum within paragraph (a) or paragraph (b) of section 22(1) derived from an asset which is not lost or destroyed is applied in restoring the asset, then if the recipient so claims, that part of the capital sum shall not be treated as consideration for the disposal deemed to be effected on receipt of the capital sum but shall be deducted from any expenditure allowable under Chapter III of this Part as a deduction in computing a gain on the subsequent disposal of the asset.
- (4) If an asset is lost or destroyed and a capital sum received by way of compensation for the loss or destruction, or under a policy of insurance of the risk of the loss or destruction, is within one year of receipt, or such longer period as the inspector may allow, applied in acquiring an asset in replacement of the asset lost or destroyed the owner shall if he so claims be treated for the purposes of this Act—
  - (a) as if the consideration for the disposal of the old asset were (if otherwise of a greater amount) of such amount as would secure that on the disposal neither a gain nor a loss accrues to him, and
  - (b) as if the amount of the consideration for the acquisition of the new asset were reduced by the excess of the amount of the capital sum received by way of compensation or under the policy of insurance, together with any residual or scrap value, over the amount of the consideration which he is treated as receiving under paragraph (a) above.
- (5) A claim shall not be made under subsection (4) above if part only of the capital sum is applied in acquiring the new asset but if all of that capital sum except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the old asset is so applied, then the owner shall if he so claims be treated for the purposes of this Act—
  - (a) as if the amount of the gain so accruing were reduced to the amount of the said part (and, if not all chargeable gain, with a proportionate reduction in the amount of the chargeable gain), and
  - (b) as if the amount of the consideration for the acquisition of the new asset were reduced by the amount by which the gain is reduced under paragraph (a) of this subsection.
- (6) This section shall not apply in relation to a wasting asset.