



# Finance Act 2002

## 2002 CHAPTER 23

### PART 3

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

### CHAPTER 2

#### OTHER PROVISIONS

#### *Chargeable gains*

#### **49 Election to forgo roll-over relief on transfer of business**

- (1) After section 162 of the Taxation of Chargeable Gains Act 1992 (c. 12) (roll-over relief on transfer of business) insert—

**“162A Election for section 162 not to apply**

- (1) Section 162 shall not apply where the transferor makes an election under this section.
- (2) An election under this section must be made by a notice given to an officer of the Board no later than the relevant date.
- (3) Except where subsection (4) below applies, the relevant date is the second anniversary of the 31st January next following the year of assessment in which the transfer of the business took place.
- (4) Where, by the end of the year of assessment following the one in which the transfer of the business took place, the transferor has disposed of all the new assets, the relevant date is the first anniversary of the 31st January next following the year of assessment in which the transfer of the business took place.

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 2002, Section 49. (See end of Document for details)*

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- (5) For the purposes of subsection (4) above—
- (a) a disposal of any of the new assets by the transferor shall be disregarded if it falls within section 58(1) (transfers between husband and wife); but
  - (b) where a disposal of any assets to a person is disregarded by virtue of paragraph (a) above, a subsequent disposal by that person of any of those assets (other than a disposal to the transferor) shall be regarded as a disposal by the transferor.
- (6) All such adjustments shall be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under this section.
- (7) Where, immediately before it was transferred, the business was owned by two or more persons—
- (a) each of them has a separate entitlement to make an election under this section;
  - (b) an election made by a person by virtue of paragraph (a) above shall apply only to—
    - (i) the share of the amount of the gain on the old assets, and
    - (ii) the share of the new assets,that is attributable to that person for the purposes of this Act.
- (8) The reference in subsection (7) above to ownership by two or more persons includes, in Scotland as well as elsewhere in the United Kingdom, a reference to ownership by a partnership consisting of two or more persons.
- (9) Expressions used in this section and in section 162 have the same meaning in this section as in that one.

But references in this section to new assets also include any shares or debentures that are treated by virtue of one or more applications of section 127 (including that section as applied by virtue of any enactment relating to chargeable gains) as the same asset as the new assets.”.

- (2) This section applies in relation to a transfer of a business on or after 6th April 2002.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2002, Section 49.