

1990 No. 681

TAXES

The Capital Gains Tax (Annual Exempt Amount)
Order 1990

Made - - - -

20th March 1990

The Treasury, in pursuance of section 5(1C) of the Capital Gains Tax Act 1979(a), hereby make the following Order:

1. This Order may be cited as the Capital Gains Tax (Annual Exempt Amount) Order 1990.
2. The amount specified, which by virtue of section 5 of the Capital Gains Tax Act 1979 is, unless Parliament otherwise determines, the exempt amount for the year 1990-91, is £5,400.

20th March 1990

Stephen Dorrell
Thomas Sackville
Two of the Lords Commissioners of Her Majesty's Treasury

(a) 1979 c.14; section 5(1A), (1B) and (1C) was inserted by section 80(2) of the Finance Act 1982 (c.39).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies £5,400 as the amount which, under section 5 of the Capital Gains Tax Act 1979 ("section 5") (as amended by section 77 of the Finance Act 1980 (c.48), section 80 of the Finance Act 1982 and section 122 of the Finance Act 1989 (c.26)), is the exempt amount for the year 1990-91 unless Parliament otherwise determines. The exempt amount for the year 1989-90 was fixed by section 122 of the Finance Act 1989 at £5,000. The amount of £5,400 is the amount for 1989-90 increased by the amount of the percentage increase (7.7%) in the retail prices index for December 1989 over that for December 1988. The amount has been rounded up to the nearest £100 in accordance with section 5(1B).

The "retail prices index" is defined in section 24(8) of the Finance Act 1980 (as extended to the Capital Gains Tax Act 1979 ("the 1979 Act") by section 80(4) of the Finance Act 1982 and as amended by paragraph 5 of Schedule 2 to the Transfer of Functions (Economic Statistics) Order 1989 (S.I. 1989/992)) as the "general index of retail prices (for all items) published by the Central Statistical Office of the Chancellor of the Exchequer". The retail prices index for December 1988 is 110.3 and for December 1989 118.8 (based on January 1987 as 100). (Table 6.1 on page S.54 of the February 1990 number of the *Employment Gazette*, the official journal of the Department of Employment.)

The exempt amount has several applications for capital gains tax. Under section 5(1) an individual's gains for a year of assessment are chargeable to tax only to the extent that they exceed the exempt amount. Under paragraphs 4 to 6 of Schedule 1 to the 1979 Act ("paragraphs 4 to 6") (as amended by section 77 of the Finance Act 1980, section 89 of the Finance Act 1981 (c.35), section 80 of the Finance Act 1982 and by Schedule 29, paragraphs 15 and 32 to, the Income and Corporation Taxes Act 1988 (c.1)), section 5(1) also applies, subject to detailed rules, to personal representatives, trustees of settlements for mentally disabled persons or persons in receipt of attendance allowance, and, as to one half of the exempt amount, trustees of other settlements.

Under section 5(5) an individual may, if appropriate, and unless an Inspector otherwise requires, satisfy his obligation to make a return of chargeable gains by stating that his gains do not exceed the exempt amount for the year and that the proceeds of his disposals in the year do not exceed an amount equal to twice the exempt amount. Under paragraphs 4 to 6, section 5(5) also applies to personal representatives and, subject to detailed rules, to trustees.

Section 104 of, and Part VIII of Schedule 14 to, the Finance Act 1988 (c.39) repeals section 45 of the 1979 Act (assessment and charge of wife's gains on husband) and also section 5(6) and paragraph 2 of Schedule 1 of the 1979 Act (apportionment of exempt amount between husband and wife) in relation to the year 1990-91 and subsequent years of assessment. Accordingly with effect for those years husbands and wives will be assessed and charged separately on their respective gains and will each be entitled to the full exempt amount.

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