
STATUTORY INSTRUMENTS

1991 No. 736

TAXES

The Capital Gains Tax (Annual Exempt Amount) Order 1991

Made - - - - *19th March 1991*

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

1. This Order may be cited as the Capital Gains Tax (Annual Exempt Amount) Order 1991.
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 1991-92, is £5,500.

19th March 1991

Gregory Knight
Nicholas Baker
Two of the Lords Commissioners of Her
Majesty's Treasury

⁽¹⁾ 1979 c. 14; section 5(1) was amended by section 77(2) of the Finance Act 1980 (c. 48) and by section 80(1)(a) of the Finance Act 1982 (c. 39); section 5(1A), (1B) and (1C) was inserted by section 80(2) of the Finance Act 1982.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies £5,500 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, section 80 of the Finance Act 1982, Part VIII of Schedule 14 to the Finance Act 1988 (c. 39) and section 72 of the Finance Act 1990 (c. 29)), is the exempt amount for the year 1991-92 unless Parliament otherwise determines. The exempt amount for the year 1990-91 was fixed by section 72 of the Finance Act 1990 at £5,000. The amount of £5,500 is the amount for 1990-91 increased by the amount of the percentage increase in the retail prices index for December 1990 over that for December 1989. The amount has been rounded up to the nearest £100 in accordance with section 5(1B).

The “retail prices index” is defined in section 833(2) of the Income and Corporation Taxes Act 1988 (c. 1) (“the 1988 Act”), 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”. This definition is applied for capital gains tax purposes by section 155(1A) of the Capital Gains Tax Act 1979 (“the 1979 Act”) (inserted by paragraph 27 of Schedule 29 to the 1988 Act). The retail prices index for December 1989 is 118.8 and for December 1990 129.9 (based on January 1987 as 100). (Table 6.1 on page S. 58 of the February 1991 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 sections 77 and 78 of the Finance Act 1980, section 89 of the Finance Act 1981 (c. 35), section 80 of the Finance Act 1982, paragraph 49 of Schedule 4 to the Mental Health Act 1983 (c. 20) and paragraphs 15 and 32 of Schedule 29 to the 1988 Act) section 5(1) also applies, by virtue of section 5(6) of the 1979 Act and 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 repealed 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 to 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 are assessed and charged separately on their respective gains and are each entitled to the full exempt amount.