
STATUTORY INSTRUMENTS

2009 No. 730

The Enactment of Extra-Statutory Concessions Order 2009

The Taxation of Chargeable Gains Act 1992

Disposals of private residence in connection with divorce, etc

9.—(1) After section 225A of the Taxation of Chargeable Gains Act 1992 (private residence held by personal representatives)(1) insert—

“225B Disposals in connection with divorce, etc

(1) Where an individual—

- (a) ceases to live with his spouse or civil partner in a dwelling-house or part of a dwelling-house which is their only or main residence, and
- (b) subsequently disposes of, or of an interest in, the dwelling-house or part to the spouse or civil partner,

then, if conditions A to C are met, sections 222 to 224 shall apply as if the dwelling-house or part continued to be the individual’s only or main residence until the disposal.

(2) Condition A is that the disposal mentioned in subsection (1)(b) is pursuant to—

- (a) an agreement between the individual and his spouse or civil partner made in contemplation of or otherwise in connection with the dissolution or annulment of the marriage or civil partnership, their judicial separation or the making of a separation order in respect of them, or their separation in other circumstances such that the separation is likely to be permanent, or
- (b) an order of a court—
 - (i) made on granting an order or a decree of divorce or nullity of marriage, for the dissolution or annulment of the civil partnership, or for judicial separation,
 - (ii) made in connection with the dissolution or annulment of the marriage or civil partnership or the parties’ judicial separation and which is made at any time after the granting of such an order or decree,
 - (iii) made at any time under section 22A, 23, 23A, 24 or 24A of the Matrimonial Causes Act 1973(2),

(1) Section 225A was inserted by paragraph 5 of Schedule 22 to the Finance Act 2004 c. 12.

(2) 1973 c. 18. Section 23 was amended by section 16 to the Administration of Justice Act 1982 (c. 53). Section 24 was amended by paragraph 3 of Schedule 3 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 24A was inserted by section 7 of the Matrimonial Homes and Property Act 1981 (c. 24) and amended by paragraph 11 of Schedule 1 to the Matrimonial and Family Proceedings Act 1984 (c. 42) and Schedule 27 to the Civil Partnership Act 2004 (c. 33). Sections 22A and 23A will be inserted, sections 23 and 24 will be substituted and section 24A will be amended by paragraphs 3 to 6 of Schedule 2, paragraph 7 of Schedule 8 and Schedule 10 to, the Family Law Act 1996 (c. 27) on a day to be appointed.

- (iv) made at any time under article 25 or 26 of the Matrimonial Causes (Northern Ireland) Order 1978(3),
- (v) made under section 8 of the Family Law (Scotland) Act 1985(4), including incidental orders made by virtue of section 14 of that Act, or
- (vi) made at any time under any provision of Schedule 5 to the [Civil Partnership Act 2004](#)(5) that corresponds to any of the provisions mentioned in paragraphs (iii) and (iv).

(3) Condition B is that in the period between the individual ceasing to reside in the dwelling-house or part of the dwelling-house and the disposal to the spouse or civil partner, the dwelling-house or part continues to be the only or main residence of the spouse or civil partner.

(4) Condition C is that the individual has not given notice under section 222(5) that another dwelling-house or part of a dwelling-house is to be treated as the individual's main residence for any part of that period.

(5) Section 223 (as applied by this section) shall apply only on the making of a claim by the individual.”.

(2) The amendment made by this article has effect in relation to disposals on or after 6th April 2009.

(3) [S.I. 1978/1045 \(N.I. 15\)](#). Article 25 was amended by article 5 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 ([S.I. 1989/677 \(N.I. 4\)](#)). Article 26 was amended by paragraph 4 of Schedule 3 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 ([S.I. 1999/3147 \(N.I. 11\)](#)).

(4) [1985 c. 37](#). Section 8 was amended by section 74 of, and paragraph 34 of Schedule 8 to, the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 ([c. 40](#)), section 20 of, and paragraph 6 of Part 1 of Schedule 12 to, the Welfare Reform and Pensions Act 1999 ([c. 30](#)) and section 167 of the Pensions Act 1995 ([c. 26](#)).

(5) [2004 c. 33](#).