



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### [<sup>F1</sup>PART 1

#### CAPITAL GAINS TAX AND CORPORATION TAX ON CHARGEABLE GAINS

### CHAPTER 1

#### CAPITAL GAINS TAX

#### *[<sup>F1</sup>Rates of CGT*

#### Textual Amendments

- F1** Pt. 1 substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by Finance Act 2019 (c. 1), [Sch. 1 para. 2](#)

### **1H The main rates of CGT**

- (1) This section makes provision about the rates at which capital gains tax is charged but has effect subject to—
  - (a) section 169N (<sup>F2</sup>business asset disposal relief): rate of 10%), and
  - (b) section 169VC (investors' relief: rate of 10%).
- (2) Chargeable gains accruing in a tax year to an individual that are—
  - (a) residential property gains (see Schedule 1B), or
  - (b) carried interest gains (see subsections (9) to (11)),are charged to capital gains tax at a rate of 18% or 28%.
- (3) Other chargeable gains accruing in a tax year to an individual are charged to capital gains tax at a rate of 10% or 20%.

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*Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Rates of CGT is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) The question as to which of the rates applies to the gains concerned is determined by section 1I (income taxed at higher rates or gains exceeding unused basic rate band).
- (5) Chargeable gains accruing in a tax year to the personal representatives of a deceased individual that are—
  - (a) residential property gains, or
  - (b) carried interest gains,
 are charged to capital gains tax at a rate of 28%.
- (6) Other chargeable gains accruing in a tax year to the personal representatives of a deceased individual are charged to capital gains tax at a rate of 20%.
- (7) Residential property gains accruing in a tax year to the trustees of a settlement are charged to capital gains tax at a rate of 28%.
- (8) Other chargeable gains accruing in a tax year to the trustees of a settlement are charged to capital gains tax at a rate of 20%.
- (9) For the purposes of this section chargeable gains are “carried interest gains” if they accrue to an individual (“X”)—
  - (a) under section 103KA(2) or (3) (investment management services),<sup>F3</sup>...
    - [ under section 103KFA(3) (gains on deemed carried interest where election made), or]
  - (b) as a result of carried interest arising to X under arrangements not involving a partnership under which X performs investment management services directly or indirectly in respect of an investment scheme.
- (10) A gain is not a carried interest gain under subsection (9)(b) if the carried interest constitutes a co-investment repayment or return.
- (11) Expressions used in subsection (9) or (10) have the same meaning as they have in Chapter 5 of Part 3.

#### Textual Amendments

- F2** Words in Act substituted (with effect for the tax year 2020-21 and subsequent tax years) by [Finance Act 2020 \(c. 14\), Sch. 3 paras. 7\(2\)\(a\), 8](#) (with [Sch. 3 para. 7\(3\)](#))
- F3** Word in [s. 1H\(9\)\(a\)](#) omitted (11.7.2023) (with effect for the tax year 2022-23 and subsequent tax years) by virtue of [Finance \(No. 2\) Act 2023 \(c. 30\), s. 42\(3\)\(a\)\(4\)](#)
- F4** [S. 1H\(9\)\(aa\)](#) inserted (with effect for the tax year 2022-23 and subsequent tax years) by [Finance \(No. 2\) Act 2023 \(c. 30\), s. 42\(3\)\(b\)\(4\)](#)

## 11 Income taxed at higher rates or gains exceeding unused basic rate band

- (1) If any of an individual's income for a tax year is chargeable to income tax at a higher income tax rate, gains accruing to the individual in the tax year are charged—
  - (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
  - (b) at the rate of 20% (if they are other kinds of gains).
- (2) If—

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- (a) none of an individual's income for a tax year is chargeable to income tax at a higher income tax rate, but
  - (b) the individual is chargeable to capital gains tax for the tax year on an amount that exceeds the unused part of the individual's basic rate band,  
the excess (“the higher rate excess”) is charged at the rate of 28%(so far as comprising residential property gains or carried interest gains) or at the rate of 20% (so far as comprising other kinds of gains).
- (3) The remainder of this section sets out special rules which apply depending on the nature of the gains within subsection (2)(b).
- (4) If—
- (a) the gains consist of or include gains (“entrepreneur or investor gains”) chargeable at the rate of 10% under section 169N(3) or 169VC(2), and
  - (b) the total amount of the entrepreneur or investor gains exceeds the unused part of the individual's basic rate band,
- that unused part is used fully against those gains.
- (5) The effect of so doing is that other gains comprised in the higher rate excess are then charged—
- (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
  - (b) at the rate of 20% (if they are other kinds of gains).
- (6) If the total amount of the entrepreneur or investor gains does not exceed the unused part of the individual's basic rate band—
- (a) so much of that unused part as is equal to that total amount is used against those gains, and
  - (b) accordingly, the higher rate excess consists only of gains other than entrepreneur or investor gains.
- (7) The individual may allocate so much of the unused part of the individual's basic rate band as then remains to—
- (a) any residential property gains or carried interest gains, or
  - (b) any other gains.
- (8) The effect of the allocation is that the gains to which the allocation is made are charged—
- (a) at the rate of 18%(if they are residential property gains or carried interest gains), or
  - (b) at the rate of 10% (if they are other kinds of gains).
- (9) Any gains to which no allocation is made are charged—
- (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
  - (b) at the rate of 20% (if they are other kinds of gains).

## **1J Section 1I: definitions and other supplementary provision**

- (1) For the purposes of section 1I—
- a “higher income tax rate” means—
  - (a) the higher rate or the default higher rate,

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- (b) the savings higher rate, or
  - (c) the dividend upper rate, and
- “the unused part of the individual's basic rate band” means the amount by which the basic rate limit exceeds the individual's Step 3 income.
- (2) If an individual is entitled to relief for a tax year under section 539 of ITTOIA 2005 (contracts for life insurance) by reference to the amount of a deficiency, the individual's Step 3 income for the tax year is treated for the purposes of this section as reduced by the amount of the deficiency.
- (3) If, as a result of section 669(1) and (2) of ITTOIA 2005 (inheritance tax on accrued income), there is a reduction in the residuary income of an estate for a tax year that reduces an individual's income by any amount, the individual's Step 3 income for the tax year is treated for the purposes of this section as reduced by the amount of that reduction in the individual's income.
- (4) If an individual has life insurance gains for a tax year, the individual's Step 3 income for the tax year is treated for the purposes of this section as if the amount of those gains were limited to—
- (a) the annual equivalent within the meaning of section 536(1) of ITTOIA 2005, or
  - (b) the total annual equivalent within the meaning of section 537 of that Act, as the case may be.
- (5) If—
- (a) an individual has life insurance gains for a tax year,
  - (b) relief is given under section 535 of ITTOIA 2005 for the tax year, and
  - (c) the calculation under section 536(1) or 537 of that Act for the tax year does not involve the higher rate,
- the individual is treated for the purposes of section 11 as if none of the individual's income were chargeable to income tax at the higher rate, the default higher rate or the dividend upper rate.
- (6) In the application of section 11 in the case of any individual it is to be assumed that the individual is not a Scottish or Welsh taxpayer.
- (7) In this section—
- “the individual's Step 3 income” means so much of the individual's total income for the tax year as is left after taking Step 3 under section 23 of ITA 2007 (income tax liability calculation), and
  - “life insurance gains”, in relation to an individual, means the amount or amounts treated as the individual's income as a result of section 465 of ITTOIA 2005 (gains from contracts for life insurance).
- (8) Expressions used in this section which have a meaning when used in the Income Tax Acts have the same meaning in this section.]

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by [S.I. 2008/3068](#), art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by [S.I. 1989/469](#), reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by [S.I. 1989/469](#), reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)