



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART VII

#### OTHER PROPERTY, BUSINESSES, INVESTMENTS ETC.

##### *Private residences*

#### **222 Relief on disposal of private residence.**

- (1) This section applies to a gain accruing to an individual so far as attributable to the disposal of, or of an interest in—
  - (a) a dwelling-house or part of a dwelling-house which is, or has at any time in his period of ownership been, his only or main residence, or
  - (b) land which he has for his own occupation and enjoyment with that residence as its garden or grounds up to the permitted area.
- (2) In this section “the permitted area” means, subject to subsections (3) and (4) below, an area (inclusive of the site of the dwelling-house) of 0.5 of a hectare.
- [<sup>F1</sup>(3) Where the area required for the reasonable enjoyment of the dwelling-house (or of the part in question) as a residence, having regard to the size and character of the dwelling-house, is larger than 0.5 of a hectare, that larger area shall be the permitted area.]
- (4) Where part of the land occupied with a residence is and part is not within subsection (1) above, then (up to the permitted area) that part shall be taken to be within subsection (1) above which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residence.
- (5) So far as it is necessary for the purposes of this section to determine which of 2 or more residences is an individual’s main residence for any period—
  - (a) the individual may conclude that question by notice to [<sup>F2</sup>an officer of the Board] given within 2 years from the beginning of that period but subject to a right to vary that notice by a further notice to [<sup>F2</sup>an officer of the Board] as

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respects any period beginning not earlier than 2 years before the giving of the further notice,

<sup>F3</sup>(b) .....  
<sup>F4</sup> .....

[<sup>F5</sup>(5A) But a notice or further notice under subsection (5)(a) determining which of 2 or more residences is an individual's main residence for any period may be given more than 2 years from the beginning of the period if during the period the individual has not held an interest of more than a negligible market value in more than one of the residences.]

(6) In the case of [<sup>F6</sup>an individual living with his spouse or civil partner]—

(a) there can only be one residence or main residence for both, so long as living together and, where a notice under subsection (5)(a) above affects both [<sup>F7</sup>the individual and his spouse or civil partner], it must be given by both, <sup>F8</sup>...

<sup>F9</sup>(b) .....

[<sup>F10</sup>(6A) Where an individual has determined, by giving notice under subsection (5)(a), that a residence is the individual's main residence, that determination does not cease to be effective at any time by reason only of the fact that, at that time, another of the individual's residences is treated by section 222B(1) as not being occupied as a residence (or, having been so treated, is no longer so treated).]

(7) In this section and sections [<sup>F11</sup>222A] to 226, “the period of ownership” where the individual has had different interests at different times shall be taken to begin from the first acquisition taken into account in arriving at the expenditure which under Chapter III of Part II is allowable as a deduction in the computation of the gain to which this section applies, and in the case of [<sup>F12</sup>an individual living with his spouse or civil partner]—

- (a) if the one disposes of, or of his or her interest in, [<sup>F13</sup>a dwelling-house] or part of a dwelling-house <sup>F14</sup>... to the other, and in particular if it passes on death to the other as legatee, the other's period of ownership shall begin with the beginning of the period of ownership of the one making the disposal, and
- (b) if paragraph (a) above applies, but the dwelling-house or part of a dwelling-house was not the only or main residence of both throughout the period of ownership of the one making the disposal, account shall be taken of any part of that period during which it was his only or main residence as if it was also that of the other.

(8) If at any time during an individual's period of ownership of a dwelling-house or part of a dwelling-house he—

- (a) resides in living accommodation which is for him job-related <sup>F15</sup>..., and
- (b) intends in due course to occupy the dwelling-house or part of a dwelling-house as his only or main residence,

this section and sections 223 to 226 shall apply as if the dwelling-house or part of a dwelling-house were at that time occupied by him as a residence.

[<sup>F16</sup>(8A) Subject to subsections (8B), (8C) and (9) below, for the purposes of subsection (8) above living accommodation is job-related for a person if—

- (a) it is provided for him by reason of his employment, or for his spouse [<sup>F17</sup>or civil partner] by reason of [<sup>F18</sup>the spouse's or civil partner's] employment, in any of the following cases—
  - (i) where it is necessary for the proper performance of the duties of the employment that the employee should reside in that accommodation;

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- (ii) where the accommodation is provided for the better performance of the duties of the employment, and it is one of the kinds of employment in the case of which it is customary for employers to provide living accommodation for employees;
    - (iii) where, there being a special threat to the employee's security, special security arrangements are in force and the employee resides in the accommodation as part of those arrangements;
  - or
  - (b) under a contract entered into at arm's length and requiring him or his spouse [F17 or civil partner] to carry on a particular trade, profession or vocation, he or his spouse [F17 or civil partner] is bound—
    - (i) to carry on that trade, profession or vocation on premises or other land provided by another person (whether under a tenancy or otherwise); and
    - (ii) to live either on those premises or on other premises provided by that other person[F19]; or
  - (c) an armed forces accommodation allowance for or towards costs of the accommodation is paid to, or in respect of, the person or the person's spouse or civil partner].
- (8B) If the living accommodation is provided by a company and the employee is a director of that or an associated company, subsection (8A)(a)(i) or (ii) above shall not apply unless—
- (a) the company of which the employee is a director is one in which he or she has no material interest; and
  - (b) either—
    - (i) the employment is as a full-time working director, or
    - (ii) the company is non-profit making, that is to say, it does not carry on a trade nor do its functions consist wholly or mainly in the holding of investments or other property, or
    - (iii) the company is [F20 a charitable company].
- (8C) Subsection (8A)(b) above does not apply if the living accommodation concerned is in whole or in part provided by—
- (a) a company in which the borrower or his spouse [F21 or civil partner] has a material interest; or
  - (b) any person or persons together with whom the borrower or his spouse [F21 or civil partner] carries on a trade or business in partnership.
- (8D) For the purposes of this section—
- (a) a company is an associated company of another if one of them has control of the other or both are under the control of the same person; and
  - (b) “employment”, “director”, “full-time working director”, “material interest” and “control”, in relation to a body corporate, have [F22 the meanings given by Chapter 2 of Part 3 of ITEPA 2003][F23]; and
  - (c) “armed forces accommodation allowance” means an allowance which is exempt from income tax by reason of section 297D of ITEPA 2003.]]
- (9) [F24 Subsections (8A)(b) and (8C) above] shall apply for the purposes of subsection (8) above only in relation to residence on or after 6th April 1983 in living accommodation which is job-related [F25 for the purposes of that subsection].

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- (10) Apportionments of consideration shall be made wherever required by this section or sections 223 to 226 and, in particular, where a person disposes of a dwelling-house only part of which is his only or main residence.

#### Textual Amendments

- F1** S. 222(3) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 20 para. 59(2)**
- F2** Words in s. 222(5)(a) substituted (with effect in accordance with Sch. 22 para. 7(1) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 22 para. 1(2)**
- F3** S. 222(5)(b) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 20 para. 59(3)(a)**, **Sch. 41 Pt. V(10)**
- F4** Words in s. 222(5) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 20 para. 59(3)(b)**, **Sch. 41 Pt. V(10)**
- F5** S. 222(5A) inserted (with effect in accordance with s. 24(9) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), **s. 24(2)(a)**
- F6** Words in s. 222(6) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), **regs. 1(1)**, **117(2)(a)**
- F7** Words in s. 222(6)(a) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), **regs. 1(1)**, **117(2)(b)**
- F8** Word in s. 222(6) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 20 para. 59(4)**, **Sch. 41 Pt. V(10)**
- F9** S. 222(6)(b) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 20 para. 59(4)**, **Sch. 41 Pt. V(10)**
- F10** S. 222(6A) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), **Sch. 9 para. 2(a)**
- F11** Word in s. 222(7) substituted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), **Sch. 9 para. 2(b)**
- F12** Words in s. 222(7) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), **regs. 1(1)**, **117(3)**
- F13** Words in s. 222(7)(a) substituted (with effect in accordance with s. 24(10) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), **s. 24(2)(b)(i)**
- F14** Words in s. 222(7)(a) omitted (with effect in accordance with s. 24(10) of the amending Act) by virtue of [Finance Act 2020 \(c. 14\)](#), **s. 24(2)(b)(ii)**
- F15** Words in s. 222(8)(a) repealed (with effect in accordance with Sch. 4 para. 18(4) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), **Sch. 4 para. 17(2)**, **Sch. 20 Pt. III(7)**
- F16** S. 222(8A)-(8D) inserted (with effect in accordance with Sch. 4 para. 18(4) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), **Sch. 4 para. 17(3)**
- F17** Words in s. 222(8A) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), **regs. 1(1)**, **117(4)(a)**
- F18** Words in s. 222(8A)(a) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), **regs. 1(1)**, **117(4)(b)**
- F19** S. 222(8A)(c) and word inserted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), **s. 24(2)(c)**
- F20** Words in s. 222(8B)(b)(iii) substituted (with effect in accordance with S.I. 2012/736, art. 8) by [Finance Act 2010 \(c. 13\)](#), **Sch. 6 paras. 13(2)**, **34(2)**; S.I. 2012/736, art. 8
- F21** Words in s. 222(8C) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), **regs. 1(1)**, **117(5)**
- F22** Words in s. 222(8D)(b) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 6 para. 213** (with **Sch. 7**)
- F23** S. 222(8D)(c) and word inserted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), **s. 24(2)(d)**
- F24** Words in s. 222(9) substituted (with effect in accordance with Sch. 4 para. 18(4) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), **Sch. 4 para. 17(4)(a)**

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**F25** Words in s. 222(9) substituted (with effect in accordance with Sch. 4 para. 18(4) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 4 para. 17\(4\)\(b\)](#)

**Modifications etc. (not altering text)**

**C1** S. 222(8A)-(8D) applied by Inheritance Tax Act 1984 (c. 51), s. 8H(7) (as inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 9\(4\)](#))

**[<sup>F26</sup>222A Determination of main residence: non-resident CGT disposals**

(1) This section applies where—

(a) an individual (“P”) makes a disposal of, or of an interest in—

(i) a dwelling-house, or part of a dwelling-house, which was at any time in P's period of ownership occupied by P as a residence, or

(ii) land (as mentioned in section 222(1)(b)) which P had for P's own occupation and enjoyment with that residence as its garden or grounds, and

[<sup>F27</sup>(b) the disposal is—

(i) a disposal on which a residential property gain (as defined by Schedule 1B) accrues which is chargeable to capital gains tax because of section 1A(3)(b), or

(ii) a disposal on which a loss accrues but is one which, had a gain accrued, would be within sub-paragraph (i).]

In the remainder of this section the residence concerned is referred to as “the dwelling-house”.

(2) So far as it is necessary for the purposes of section 222, P may determine, by a notice under this section, which of 2 or more residences (of which one is the dwelling-house) was P's main residence for any period within P's period of ownership of the dwelling-house.

(3) A notice under this section may vary, as respects any period within P's period of ownership of the dwelling-house, a notice previously given under section 222(5)(a).

See also subsections (4) and (7).

(4) A notice under this section may not vary a notice previously given under section 222(5) (a) as respects any period for which the previous notice had the effect of determining whether or not a disposed of residence was P's main residence.

(5) In subsection (4) “disposed of residence” means one of P's residences which was disposed of (in whole or in part) before the date of the disposal mentioned in subsection (1)(a).

(6) A notice under this section—

(a) must be given in [<sup>F28</sup>the return under Schedule 2 to the Finance Act 2019] in respect of the disposal mentioned in subsection (1)(a), and

(b) may not subsequently be varied, whether by a notice under this section or section 222(5)(a).

(7) Where a notice under this section affects both P and an individual (“X”) who was, in the period to which the notice relates (“the relevant period”), P's spouse or civil partner living with P—

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- (a) in a case where each of P and X is required to make [<sup>F29</sup>a return under Schedule 2 to the Finance Act 2019] in respect of the disposal of an interest in the dwelling-house, notice given by P under this section is effective as respects any part of the relevant period when P and X were living together as spouses or civil partners only if notice to the same effect is also given under this section by X in respect of that period;
- (b) in any other case, notice given by P under this section is effective as respects any part of the relevant period when P and X were living together as spouses or civil partners only if it is accompanied by written notification from X agreeing to the terms of the notice in respect of that period.

(8) Nothing in subsection (2) affects the application of section 222(5) in relation to P.

#### Textual Amendments

- F26** Ss. 222A-222C inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 3](#)
- F27** S. 222A(1)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 72](#)
- F28** Words in s. 222A(6)(a) substituted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 26\(2\)\(a\)](#)
- F29** Words in s. 222A(7)(a) substituted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 26\(2\)\(b\)](#)

### 222B Non-qualifying tax years

- (1) For the purposes of sections 222 to 226 the dwelling-house or part of a dwelling-house mentioned in section 222(1) is treated as not being occupied as a residence by the individual so mentioned (“P”) at any time in P’s period of ownership which falls within—
  - (a) a non-qualifying tax year, or
  - (b) a non-qualifying partial tax year.

In the remainder of this section the dwelling-house or part of a dwelling-house is referred to as “the dwelling-house”.
- (2) Except where the disposal mentioned in section 222(1) is [<sup>F30</sup>a disposal falling within section 222A(1)(b) (non-resident disposals)], subsection (1) does not have effect in respect of any tax year or partial tax year before the tax year 2015-16.
- (3) A tax year the whole of which falls within P’s period of ownership is “a non-qualifying tax year” in relation to the dwelling-house if—
  - (a) neither P nor P’s spouse or civil partner was resident for that tax year in the territory in which the dwelling-house is situated, and
  - (b) the day count test was not met by P with respect to the dwelling-house for that tax year (see section 222C).
- (4) A partial tax year is “a non-qualifying partial tax year” in relation to the dwelling-house if—
  - (a) neither P nor P’s spouse or civil partner was resident for the tax year in question in the territory in which the dwelling-house is situated, and

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- (b) the day count test was not met by P with respect to the dwelling-house for that partial tax year.
- (5) Where part only of a tax year falls within P's period of ownership, that part is a “partial tax year” for the purposes of this section.
- (6) For the purposes of this section an individual is resident in a territory outside the United Kingdom (“the overseas territory”) for a tax year (“year X”) in relation to which condition A or B is met.
- (7) Condition A is that the individual is, in respect of a period or periods making up more than half of year X, liable to tax in the overseas territory under the law of that territory by reason of the individual's domicile or residence.
- (8) Condition B is that the individual would be resident in the overseas territory for year X in accordance with the statutory residence test in Part 1 of Schedule 45 to the Finance Act 2013, if in Parts 1 and 2 of that Schedule—
  - (a) any reference to the United Kingdom (however expressed) were read as a reference to the overseas territory,
  - (b) “overseas” meant anywhere outside that territory, and
  - (c) in paragraph 26 (meaning of “work”), sub-paragraphs (2) to (4), (6) and (7) were disregarded.
- (9) In applying the statutory residence test in accordance with subsection (8), any determination of whether—
  - (a) the individual was resident in the overseas territory for a tax year preceding year X, or
  - (b) another individual is resident in the overseas territory for year X,is to be made in accordance with the statutory residence test, as modified by subsection (8).
- (10) [<sup>F31</sup>Section 271ZA(2)] (visiting forces etc) is to be disregarded in determining for the purposes of this section whether or not an individual is resident in the United Kingdom.
- (11) Subsection (1) is subject to—
  - (a) section 222(8) (job-related accommodation), and
  - (b) section 223(3) (absence reliefs).

#### Textual Amendments

- F26** Ss. 222A-222C inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 3](#)
- F30** Words in s. 222B(2) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 73\(2\)](#)
- F31** Words in s. 222B(10) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 73\(3\)](#)

## 222C Day count test

- (1) This section explains how P meets the day count test (see section 222B) with respect to the dwelling-house or part of a dwelling-house mentioned in section 222(1) for a full or partial tax year.

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In the remainder of this section the dwelling-house or part of a dwelling-house is referred to as “the dwelling-house”.

- (2) P meets that test for a tax year with respect to the dwelling-house if, during that year, P spends at least 90 days in one or more qualifying houses.
- (3) P meets that test for a partial tax year with respect to the dwelling-house if, during that partial tax year, P spends at least the relevant number of days in one or more qualifying houses.
- (4) To find the relevant number of days for the purposes of subsection (3), multiply 90 days by the relevant fraction and round up the result to the nearest whole number of days if necessary.
- (5) The relevant fraction is—

$$\frac{X}{Y}$$

where—

“X” is the number of days in the partial tax year;

“Y” is the number of days in the tax year.

- (6) For the purposes of subsections (2) and (3) the days need not be consecutive, and days spent in different qualifying houses may be aggregated.
- (7) A day spent by P's spouse or civil partner in a dwelling-house or part of a dwelling-house which is a qualifying house in relation to P counts as a day spent by P in the qualifying house (but no day is to be counted twice as a result of this subsection).
- (8) For the purposes of this section, a day counts as a day spent by an individual in a qualifying house if—
  - (a) the individual is present at the house at the end of the day, or
  - (b) the individual—
    - (i) is present in the house for some period during the day, and
    - (ii) the next day, has stayed overnight in the house.
- (9) For the purposes of this section—
  - (a) the dwelling-house is a qualifying house in relation to P, and
  - (b) any other dwelling-house or part of a dwelling-house which is situated in the same territory as the dwelling-house is a qualifying house in relation to P at any particular time if at that time any of the following has an interest in it—
    - (i) P,
    - (ii) an individual who is P's spouse or civil partner at that time, and
    - (iii) an individual who is P's spouse or civil partner at the time of disposal of the dwelling-house.

- (10) In this section “partial tax year” has the meaning given by section 222B(5).]

#### Textual Amendments

**F26** Ss. 222A-222C inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 3](#)



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## 223 Amount of relief.

- (1) No part of a gain to which section 222 applies shall be a chargeable gain if the dwelling-house or part of a dwelling-house has been the individual's only or main residence throughout the period of ownership, or throughout the period of ownership except for all or any part of the last [<sup>F329</sup> months] of that period.
- (2) Where subsection (1) above does not apply, a fraction of the gain shall not be a chargeable gain, and that fraction shall be—
- (a) the length of the part or parts of the period of ownership during which the dwelling-house or the part of the dwelling-house was the individual's only or main residence, but inclusive of the last [<sup>F339</sup> months] of the period of ownership in any event, divided by
  - (b) the length of the period of ownership.
- (3) For the purposes of [<sup>F34</sup>sections 222(5) and 222A and] subsections (1) and (2) above—
- (a) a period of absence not exceeding 3 years (or periods of absence which together did not exceed 3 years), and in addition
  - (b) any period of absence throughout which the individual worked in an employment or office all the duties of which were performed outside the United Kingdom [<sup>F35</sup>or lived with a spouse or civil partner who worked in such an employment or office], and in addition
  - (c) any period of absence not exceeding 4 years (or periods of absence which together did not exceed 4 years) throughout which the individual was prevented from residing in the dwelling-house or part of the dwelling-house in consequence of the situation of his place of work or in consequence of any condition imposed by his employer requiring him to reside elsewhere, being a condition reasonably imposed to secure the effective performance by the employee of his duties, [<sup>F36</sup>and in addition,]
  - [<sup>F37</sup>(d) any period of absence not exceeding 4 years (or periods of absence which together did not exceed 4 years) throughout which the individual lived with a spouse or civil partner in respect of whom paragraph (c) applied in respect of that period (or periods),]
- shall be treated as if in that period of absence the dwelling-house or the part of the dwelling-house [<sup>F38</sup>were occupied by the individual as a residence][<sup>F39</sup>if conditions A and B are met.]

[<sup>F40</sup>(3A) Condition A is that before the period there was a time when the dwelling-house was the individual's only or main residence.

(3B) Condition B is that after the period—

- (a) in a case falling within paragraph (a), (b), (c) or (d) of subsection (3), there was a time when the dwelling-house was the individual's only or main residence,
- (b) in a case falling within paragraph (b), (c) or (d) of that subsection, the individual was prevented from resuming residence in the dwelling-house in consequence of the situation of the individual's place of work or a condition imposed by the terms of the individual's employment requiring the individual to reside elsewhere, being a condition reasonably imposed to secure the effective performance by the employee of his duties, or
- (c) in a case falling within paragraph (b), (c) or (d) of that subsection, the individual lived with a spouse or civil partner to whom paragraph (b) of this subsection applied.]

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- <sup>F41</sup>(4) . . . . .
- <sup>F42</sup>(5) . . . . .
- <sup>F42</sup>(6) . . . . .
- <sup>F43</sup>(7) In this section “period of ownership”—
- (a) does not include any period before 31 March 1982, and
  - (b) where the whole or part of the gain to which section 222 applies is [<sup>F44</sup>a residential property gain (as defined by Schedule 1B) which is chargeable to capital gains tax because of section 1A(3)(b)], does not include any period before 6 April 2015 (but see subsection (7A)).
- (7A) Paragraph (b) of the definition of “period of ownership” does not apply in a case where [<sup>F45</sup>paragraph 8 or 14 of Schedule 4AA applies] (the individual has made an election for the retrospective basis of computation to apply).
- (7B) In this section “period of absence” means a period during which the dwelling-house or the part of the dwelling-house was not occupied by the individual as a residence.]
- <sup>F46</sup>(8) This section is subject to—
- (a) section 224 (amount of relief: further provisions),
  - [<sup>F47</sup>(aa) section 225D (private residence of adult placement carer),]<sup>F48</sup>...
  - [<sup>F49</sup>(ab) section 225E (disposals by disabled persons or persons in care homes etc), and]
  - (b) section 226A (private residence relief: cases where relief obtained under section 260).]

#### Textual Amendments

- F32** Words in s. 223(1) substituted (with effect in accordance with s. 24(11) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 24\(3\)\(a\)](#)
- F33** Words in s. 223(2)(a) substituted (with effect in accordance with s. 24(11) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 24\(3\)\(a\)](#)
- F34** Words in s. 223(3) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 9 para. 4\(2\)\(a\)](#)
- F35** Words in s. 223(3)(b) inserted (with effect in accordance with art. 7(5) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\), arts. 1\(1\), 7\(2\)](#)
- F36** Words in s. 223(3)(c) inserted (with effect in accordance with art. 7(5) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\), arts. 1\(1\), 7\(3\)](#)
- F37** S. 223(3)(d) inserted (with effect in accordance with art. 7(5) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\), arts. 1\(1\), 7\(4\)](#)
- F38** Words in s. 223(3) substituted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 9 para. 4\(2\)\(b\)](#)
- F39** Words in s. 223(3) substituted (with effect in accordance with art. 8(4) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\), arts. 1\(1\), 8\(2\)](#)
- F40** S. 223(3A)(3B) inserted (with effect in accordance with art. 8(4) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\), arts. 1\(1\), 8\(3\)](#)
- F41** S. 223(4) omitted (with effect in accordance with s. 24(11) of the amending Act) by virtue of [Finance Act 2020 \(c. 14\), s. 24\(3\)\(b\)](#)
- F42** S. 223(5)(6) omitted (with effect in accordance with s. 58(4) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\), s. 58\(2\)\(b\)](#)

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- F43** S. 223(7)-(7B) substituted for s. 223(7) (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 4\(3\)](#)
- F44** Words in s. 223(7)(b) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 74\(2\)](#)
- F45** Words in s. 223(7A) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 74\(3\)](#)
- F46** S. 223(8) inserted (with effect in accordance with Sch. 22 paras. 7(3)(4), 8 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 2\(3\)](#)
- F47** S. 223(8)(aa) inserted (with effect in accordance with s. 16(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 16\(1\)](#)
- F48** Word in s. 223(8) omitted (with effect in accordance with s. 58(4) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [s. 58\(2\)\(c\)](#)
- F49** S. 223(8)(ab) inserted (with effect in accordance with s. 58(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 58\(2\)\(c\)](#)

## **[<sup>F50</sup>223ZA] Amount of relief: individual's residency delayed by certain events**

- (1) Subsection (4) below applies where—
  - (a) a gain to which section 222 applies accrues to an individual on the disposal of, or of an interest in, a dwelling-house or part of a dwelling-house,
  - (b) the time at which the dwelling-house or the part of the dwelling-house first became the individual's only or main residence ("the moving-in time") was within the first 24 months of the individual's period of ownership,
  - (c) at no time during the period beginning with the individual's period of ownership and ending with the moving-in time was the dwelling-house or the part of the dwelling-house another person's residence, and
  - (d) during the period beginning with the individual's period of ownership and ending with the moving-in time a qualifying event occurred.
- (2) The following are qualifying events—
  - (a) the completion of the construction, renovation, redecoration or alteration of the dwelling-house or the part of the dwelling-house mentioned in subsection (1);
  - (b) the disposal by the individual of, or of an interest in, any other dwelling-house or part of a dwelling-house that immediately before the disposal was the individual's only or main residence.
- (3) In determining whether and, if so, when a qualifying event within subsection (2)(b) occurred, ignore section 28 (time of disposal where asset disposed of under contract).
- (4) For the purposes of subsections (1) and (2) of section 223, as they have effect in relation to the gain, the dwelling-house or the part of the dwelling-house mentioned in subsection (1) above is to be treated as having been the individual's only or main residence from the beginning of the individual's period of ownership until the moving-in time.]

### **Textual Amendments**

- F50** [S. 223ZA](#) inserted (with effect in accordance with s. 24(11) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [s. 24\(4\)](#)

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## **[<sup>F51</sup>223A Amount of relief: non-resident CGT disposals**

- (1) This section applies where—
  - (a) the individual mentioned in section 223(1) (“P”) acquired the asset to which the gain mentioned in section 222(1) is attributable before 6 April 2015, and
  - (b) P’s period of ownership for the purposes of section 223 begins on that date because of section 223(7)(b).
- (2) Times before 6 April 2015 are to be ignored in determining whether or not condition A in section 223 is met in relation to a period of absence, unless P elects that this subsection is not to apply in relation to the period.
- (3) An election under subsection (2)—
  - (a) must specify which day before 6 April 2015 P relies on in relation to the period of absence for the purpose of meeting condition A in section 223, and
  - (b) must be made in [<sup>F52</sup>the return under Schedule 2 to the Finance Act 2019] in respect of the disposal.
- (4) Where P has made an election under subsection (2), section 223 applies as if relevant prior periods of absence counted against the maximum periods (and maximum aggregate periods) specified in subsection (3)(a), (c) and (d) of that section.
- (5) In relation to a maximum period (or maximum aggregate period) specified in paragraph (a), (c) or (d) of section 223(3), “relevant prior period of absence” means a period of absence which would have counted against that maximum period (or maximum aggregate period) if the bridge period were included in the period of ownership.
- (6) In subsection (5) “the bridge period” means the period beginning with the day specified in the election and ending with 5 April 2015.
- (7) In this section “period of absence” has the same meaning as in section 223.]

### **Textual Amendments**

- F51** S. 223A inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 5](#)
- F52** Words in s. 223A(3)(b) substituted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 26\(3\)](#)

## **[<sup>F53</sup>223B Additional relief: part of private residence let out**

- (1) Where—
  - (a) a gain to which section 222 applies accrues to an individual on the disposal of, or of an interest in, a dwelling-house or part of a dwelling-house, and
  - (b) at any time in the individual’s period of ownership the condition in subsection (2) is met in respect of the dwelling-house,

the part of the gain that is within subsection (3) is a chargeable gain only to the extent, if any, to which it exceeds the amount in subsection (4).
- (2) The condition is that—
  - (a) part of the dwelling-house is the individual’s only or main residence, and

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- (b) another part of the dwelling-house is being let out by the individual as residential accommodation.
- (3) The part of the gain that is within this subsection is the part that (but for subsection (1)) would be a chargeable gain by reason of the fact that, at the times in the individual's period of ownership when the condition in subsection (2) is met, the individual's only or main residence does not include the part of the dwelling-house that is being let out as residential accommodation.
- (4) The amount is whichever is the lesser of—
  - (a) the amount of the gain that is not a chargeable gain by virtue of section 223, and
  - (b) £40,000.
- (5) Where by reason of section 222(7)(a) the individual's period of ownership mentioned in subsection (1) begins with the beginning of the period of ownership of another person, any question whether the condition in subsection (2) is met at a time that is within both those periods of ownership is to be determined as if the references in subsection (2) to the individual were to that other person.]

#### Textual Amendments

**F53** S. 223B inserted (with effect in accordance with s. 24(11) of the amending Act) by [Finance Act 2020](#) (c. 14), s. 24(5)

#### 224 [F54Relief under sections 223 and 223B]: further provisions.

- (1) If [F55a gain to which section 222 applies][F56accrues on] the disposal of a dwelling-house or part of a dwelling-house part of which is used exclusively for the purpose of a trade or business, or of a profession or vocation, the gain shall be apportioned and [F57sections 223 and 223B] shall apply in relation to the part of the gain apportioned to the part which is not exclusively used for those purposes.
- (2) If at any time in the period of ownership there is a change in what is occupied as the individual's residence, whether on account of a reconstruction or conversion of a building or for any other reason, or there have been changes as regards the use of part of the dwelling-house for the purpose of a trade or business, or of a profession or vocation, or for any other purpose, the relief given by [F58sections 223 and 223B][F59may be adjusted in a manner which is just and reasonable].
- (3) [F60Sections 223 and 223B] shall not apply in relation to a gain if the acquisition of, or of the interest in, the dwelling-house or the part of a dwelling-house was made wholly or partly for the purpose of realising a gain from the disposal of it, and shall not apply in relation to a gain so far as attributable to any expenditure which was incurred after the beginning of the period of ownership and was incurred wholly or partly for the purpose of realising a gain from the disposal.

[F61(4) This section is subject to section 225D (private residence of adult placement carer).]

#### Textual Amendments

**F54** Words in s. 224 heading substituted (with effect in accordance with s. 24(11) of the amending Act) by [Finance Act 2020](#) (c. 14), s. 24(6)(a)

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- F55** Words in s. 224(1) substituted (with effect in accordance with s. 24(11) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 24\(6\)\(b\)\(i\)](#)
- F56** Words in s. 224(1) substituted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 22 para. 3\(2\)](#)
- F57** Words in s. 224(1) substituted (with effect in accordance with s. 24(11) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 24\(6\)\(b\)\(ii\)](#)
- F58** Words in s. 224(2) substituted (with effect in accordance with s. 24(11) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 24\(6\)\(c\)](#)
- F59** Words in s. 224(2) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 20 para. 60](#)
- F60** Words in s. 224(3) substituted (with effect in accordance with s. 24(11) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 24\(6\)\(d\)](#)
- F61** S. 224(4) inserted (with effect in accordance with s. 16(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 16\(2\)](#)

## 225 Private residence occupied under terms of settlement.

- <sup>F62</sup>(1) Sections 222 to 224 shall also apply in relation to a gain accruing to <sup>F63</sup>the trustees of a settlement] on a disposal of settled property being an asset within section 222(1) where, during the period of ownership of <sup>F64</sup>the trustees], the dwelling-house or part of the dwelling-house mentioned in that subsection has been the only or main residence of a person <sup>F65</sup>(“B”) entitled to occupy it under the terms of the settlement, and in those sections as so applied—
- (a) references to the individual shall be taken as references to <sup>F66</sup>the trustees] except in relation to <sup>F67</sup>the matters dealt with in subsection (2),]
  - (b) the notice which may be given to <sup>F68</sup>an officer of the Board] under section 222(5)(a) shall be a joint notice by <sup>F69</sup>the trustees] and <sup>F70</sup>B, and]
  - <sup>F71</sup>(c) the notice which may be given by the trustees under section 222A is effective only if it is accompanied by written notification from B agreeing to the terms of the notice;]
- <sup>F72</sup>but section 223 (as so applied) shall apply only on the making of a claim by the trustees].
- <sup>F73</sup>(2) In sections 222 to 224, as applied by subsection (1), references to the individual, in relation to—
- (a) the occupation of the dwelling-house or part of the dwelling-house,
  - (b) residence in a territory, or
  - (c) meeting the day count test,
- are to be taken as references to B.]

### Textual Amendments

- F62** S. 225 renumbered as s. 225(1) (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 9 para. 6\(2\)](#)
- F63** Words in s. 225 substituted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 22 para. 4\(2\)\(a\)](#)
- F64** Words in s. 225 substituted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 22 para. 4\(2\)\(b\)](#)
- F65** Word in s. 225(1) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 9 para. 6\(3\)\(a\)](#)



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- F66** Words in s. 225(a) substituted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 4\(3\)](#)
- F67** Words in s. 225(1)(a) substituted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 6\(3\)\(b\)](#)
- F68** Words in s. 225(b) substituted (with effect in accordance with Sch. 22 para. 7(1)(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 4\(4\)\(a\)](#)
- F69** Words in s. 225(b) substituted (with effect in accordance with Sch. 22 para. 7(1)(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 4\(4\)\(b\)](#)
- F70** Words in s. 225(1)(b) substituted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 6\(3\)\(c\)](#)
- F71** S. 225(1)(c) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 6\(3\)\(d\)](#)
- F72** Words in s. 225 inserted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 4\(5\)](#)
- F73** S. 225(2) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 6\(4\)](#)

#### **[<sup>F74</sup>225A Private residence held by personal representatives**

- (1) Sections 222 to 224 shall also apply in relation to a gain accruing to the personal representatives of a deceased person on a disposal of an asset within section 222 (1) if the following conditions are satisfied.
- (2) The first condition is that, immediately before and immediately after the death of the deceased person, the dwelling-house or part of the dwelling-house mentioned in section 222 (1) was the only or main residence of one or more individuals.
- (3) The second condition is that—
  - (a) that individual or one of those individuals has a relevant entitlement, or two or more of those individuals have relevant entitlements, and
  - (b) the relevant entitlement accounts for, or the relevant entitlements together account for, 75% or more of the net proceeds of disposal;
 and for this purpose “relevant entitlement” means an entitlement as legatee of the deceased person to, or to an interest in possession in, the whole or any part of the net proceeds of disposal.
- (4) In subsection (3) above “net proceeds of disposal” means—
  - (a) the proceeds of the disposal of the asset realised by the personal representatives, less
  - (b) any incidental costs allowable as a deduction in accordance with section 38(1)
  - (c) in computing the gain accruing to the personal representatives on that disposal,
 but on the assumption that none of the proceeds is required to meet the liabilities of the deceased person’s estate (including any liability to inheritance tax).
- (5) In sections 222 to 224 as applied by this section—
  - (a) references to the individual shall be taken as references to the personal representatives except in relation to [<sup>F75</sup>the matters dealt with in paragraph (aa).]
  - [<sup>F76</sup>(aa) in relation to the occupation of the dwelling-house or part of the dwelling-house, residence in a territory, or meeting the day count test, references to the individual are to be taken as references to a qualifying individual,]

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- (b) the notice which may be given to an officer of the Board under section 222(5) (a) shall be a joint notice by the personal representatives and the individual or individuals entitled to occupy the dwelling-house or part of the dwelling-house <sup>F77</sup>and
  - (c) the notice which may be given by the personal representatives under section 222A is effective only if it is accompanied by written notification from the individual or individuals entitled to occupy the dwelling-house or part of the dwelling-house agreeing to the terms of the notice.]
- (6) But section 223 (as so applied) shall apply only on the making of a claim by the personal representatives.

[ In subsection (5)(aa) “a qualifying individual” means an individual—  
<sup>F78</sup>(7) (a) who has a relevant entitlement, and  
 (b) by virtue of whom the first condition is met.]]

#### Textual Amendments

- F74** S. 225A inserted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 5](#)
- F75** Words in s. 225A(5)(a) substituted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 7\(2\)\(a\)](#)
- F76** S. 225A(5)(aa) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 7\(2\)\(b\)](#)
- F77** S. 225A(5)(c) and preceding word inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 7\(2\)\(c\)](#)
- F78** S. 225A(7) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 7\(3\)](#)

#### <sup>F79</sup>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 <sup>F80</sup>someone other than] 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 <sup>F81</sup>a divorce or nullity of marriage order,] a decree of divorce or nullity of marriage, <sup>F82</sup>an order or decree] for the dissolution or annulment of the civil partnership, or <sup>F83</sup>an order or decree] for judicial separation,



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- (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,
  - (iv) made at any time under article 25 or 26 of the Matrimonial Causes (Northern Ireland) Order 1978,
  - (v) made under section 8 of the Family Law (Scotland) Act 1985, 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 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 [<sup>F84</sup>someone other than] 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) [<sup>F85</sup>or 222A] 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.]

#### Textual Amendments

- F79** S. 225B inserted (with effect in accordance with art. 9(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), **9(1)**
- F80** Words in s. 225B(1)(b) inserted (6.4.2023 in relation to disposals made on or after that date) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), s. **41(3)(a)(6)**
- F81** Words in s. 225B(2)(b)(i) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 53(a)**; S.I. 2022/283, reg. 2
- F82** Words in s. 225B(2)(b)(i) inserted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 53(b)**; S.I. 2022/283, reg. 2
- F83** Words in s. 225B(2)(b)(i) inserted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 53(c)**; S.I. 2022/283, reg. 2
- F84** Words in s. 225B(3) inserted (6.4.2023 in relation to disposals made on or after that date) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), s. **41(3)(b)(6)**
- F85** Words in s. 225B(4) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), **Sch. 9 para. 8**

#### [<sup>F86</sup>**225B**Deferred payments on disposals in connection with divorce etc

- (1) This section applies where—
- (a) an individual (“A”) ceases to live with A’s spouse or civil partner (“B”) in a dwelling-house or part of a dwelling-house,
  - (b) immediately before A ceases to live with B, the dwelling-house or part is A’s only or main residence,
  - (c) A disposes of, or of an interest in, that dwelling-house or part to B (“the initial disposal”), and

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- (d) the initial disposal is in accordance with a deferred sale agreement or order.
- (2) If—
  - (a) in accordance with the deferred sale agreement or order A receives a sum in respect of a share of any profit made by B upon B's disposal of, or of an interest in, the dwelling-house or part, and
  - (b) the receipt of that sum would be treated (apart from this section) as a disposal falling with section 22 (disposal where capital sums derived from assets),
 that receipt is to be treated for the purposes of this Act as a gain attributable to the initial disposal but accruing to A at the time the sum is received.
- (3) In this section, a “deferred sale agreement or order” is an agreement or order of a court which—
  - (a) is within paragraph (a) or (b), as the case may be, of section 225B(2) (agreements and orders of the court in relation to divorce etc), and
  - (b) includes a term entitling A to receive a share of any profit made by B as mentioned in subsection (2)(a).]

#### Textual Amendments

**F86** S. 225BA inserted (6.4.2023 in relation to disposals made on or after that date) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [s. 41\(4\)\(6\)](#)

### [<sup>F87</sup>225C Sale of private residence under certain agreements with employer, etc

- (1) This section applies where—
  - (a) an individual disposes of, or of an interest in, a dwelling-house or a part of a dwelling-house which is the individual's only or main residence (“the initial disposal”),
  - (b) the individual does so as a consequence of a change to the situation of the individual's place of work or that of a co-owner of the dwelling-house or the interest, being a change that is required by the employer of the individual or the co-owner, and
  - (c) the initial disposal is under a home purchase agreement.
- (2) If—
  - (a) under the terms of the agreement the individual receives, within three years of the initial disposal, a share of any profit made by the purchaser upon the purchaser's disposal of, or of an interest in, the dwelling-house or part of the dwelling-house, and
  - (b) the receipt of that sum would be treated (apart from this section) as a disposal falling within section 22 (disposal where capital sums derived from assets),
 that receipt shall be treated for the purposes of this Act as a gain attributable to the initial disposal but accruing to the individual at the time the sum is received.
- (3) In this section—
  - “home purchase agreement” means an agreement—
    - (a) made with the employer or a person operating under an agreement with the employer (“the purchaser”),

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- (b) which includes a term entitling the individual to receive a share of any such profit as is mentioned in subsection (2)(a);
- “co-owner”, in relation to any individual (“A”), means another individual who holds an interest jointly or in common with A, whether or not the interests of the co-owners are equal.]

#### Textual Amendments

**F87** S. 225C inserted (with effect in accordance with art. 10(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\)](#), arts. 1(1), **10(1)**

#### [<sup>F88</sup>**225D** Private residence of adult placement carer

- (1) This section applies where a gain to which section 222 applies accrues to an individual (“A”) and, at any time during A's period of ownership, part of the dwelling-house was occupied by another person (“B”)—
- (a) in England <sup>F89</sup>..., pursuant to an adult placement scheme,
- [ in Wales, pursuant to arrangements which constitute or form part of an adult
- <sup>F90</sup>(aa) placement service,]
- (b) in Scotland, pursuant to arrangements which constitute or form part of an adult placement service involving the provision of accommodation for B, or
- (c) in Northern Ireland, pursuant to arrangements made with an adult placement agency for the provision of accommodation for B.
- (2) For the purposes of this Part, in determining the periods during which the dwelling-house, or any part of the dwelling-house, was A's only or main residence, B's occupation of part of the dwelling-house pursuant to the scheme or arrangement is to be disregarded.
- (3) For the purposes of section 224, the occupation of the part of the dwelling-house by B pursuant to the scheme or arrangement does not amount to the use of that part of the dwelling-house by A exclusively for the purpose of a trade, business, profession or vocation.
- (4) In this section—
- “adult placement agency” means an organisation or undertaking—
- (a) that arranges for the provision of care and support (including accommodation) for persons in need, and
- (b) in respect of which a requirement to register arises under Article 12 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003,
- “adult placement scheme” means a scheme—
- (a) under which an individual agrees with the person carrying on the scheme to provide care and support (including accommodation) to an adult who is in need of it, and
- (b) in respect of which a requirement to register arises under section 11 of the Care Standards Act 2000, and
- [<sup>F91</sup>“adult placement service”—
- (a) in relation to Scotland, has the meaning given by paragraph 11 of Schedule 12 to the Public Services Reform (Scotland) Act 2010, and

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- (b) in relation to Wales, has the meaning given by paragraph 6 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2).]]

#### Textual Amendments

- F88** S. 225D inserted (with effect in accordance with s. 16(4)(5) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 16\(3\)](#)
- F89** Words in s. 225D(1)(a) omitted (29.4.2019) by virtue of [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2019 \(S.I. 2019/772\), regs. 1\(2\), 7\(2\)\(a\)](#)
- F90** S. 225D(1)(aa) inserted (29.4.2019) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2019 \(S.I. 2019/772\), regs. 1\(2\), 7\(2\)\(b\)](#)
- F91** Words in s. 225D(4) substituted (29.4.2019) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2019 \(S.I. 2019/772\), regs. 1\(2\), 7\(3\)](#)

#### [<sup>F92</sup> 225E Disposals by disabled persons or persons in care homes etc

- (1) This section applies where a gain to which section 222 applies accrues to an individual and—
  - (a) the conditions in subsection (2) are met, or
  - (b) the conditions in subsection (3) are met.
- (2) The conditions mentioned in subsection (1)(a) are that at the time of the disposal—
  - (a) the individual is a disabled person or a long-term resident in a care home, and
  - (b) the individual does not have any other relevant right in relation to a private residence.
- (3) The conditions mentioned in subsection (1)(b) are that at the time of the disposal—
  - (a) the individual's spouse or civil partner is a disabled person or a long-term resident in a care home, and
  - (b) neither the individual nor the individual's spouse or civil partner has any other relevant right in relation to a private residence.
- (4) Where this section applies, the references in section 223(1) and (2)(a) to [<sup>F93</sup>9 months] are treated as references to 36 months.
- (5) An individual is a “long-term resident” in a care home at the time of the disposal if at that time the individual —
  - (a) is resident there, and
  - (b) has been resident there, or can reasonably be expected to be resident there, for at least three months.
- (6) An individual has “any other relevant right in relation to a private residence” at the time of the disposal if—
  - (a) at that time—
    - (i) the individual owns or holds an interest in a dwelling-house or part of a dwelling-house other than that in relation to which the gain accrued, or
    - (ii) the trustees of a settlement own or hold an interest in a dwelling-house or part of a dwelling-house other than that in relation to which the

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- gain accrued, and the individual is entitled to occupy that dwelling-house or part under the terms of the settlement, and
- (b) section 222 would have applied to any gain accruing to the individual or trustees on the disposal at that time of, or of that interest in, that dwelling-house or part (or would have applied if a notice under subsection (5) of that section [<sup>F94</sup> or under section 222A] had been given).
- (7) In the application of this section in relation to a gain to which section 222 applies by virtue of section 225 (private residence occupied under terms of settlement)—
- (a) the reference in subsection (1) of this section to an individual is to the trustees of the settlement;
- (b) the references in subsections (2) to (6) of this section to the individual are to the person entitled under the terms of the settlement, as mentioned in section 225.
- (8) In this section—
- “care home” means an establishment that provides accommodation together with nursing or personal care;
- “disabled person” has the meaning given by Schedule 1A to FA 2005.]

#### Textual Amendments

- F92** S. 225E inserted (with effect in accordance with s. 58(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 58\(2\)\(c\)](#)
- F93** Words in s. 225E(4) substituted (with effect in accordance with s. 24(11) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [s. 24\(7\)](#)
- F94** Words in s. 225E(6)(b) inserted (with effect in accordance with Sch. 9 para. 10 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 9 para. 9](#)

### 226 Private residence occupied by dependent relative before 6th April 1988.

- (1) Subject to subsection (3) below, this section applies to a gain accruing to an individual so far as attributable to the disposal of, or of an interest in, a dwelling-house or part of a dwelling-house which, on 5th April 1988 or at any earlier time in his period of ownership, was the sole residence of a dependent relative of the individual, provided rent-free and without any other consideration.
- (2) If the individual so claims, such relief shall be given in respect of it and its garden or grounds as would be given under sections 222 to 224 if the dwelling-house (or part of the dwelling-house) had been the individual's only or main residence in the period of residence by the dependent relative, and shall be so given in addition to any relief available under those sections apart from this section.
- (3) If in a case within subsection (1) above the dwelling-house or part ceases, whether before 6th April 1988 or later, to be the sole residence (provided as mentioned above) of the dependent relative, any subsequent period of residence beginning on or after that date by that or any other dependent relative shall be disregarded for the purposes of subsection (2) above.
- (4) Not more than one dwelling-house (or part of a dwelling-house) may qualify for relief as being the residence of a dependent relative of the claimant at any one time nor, in the case of [<sup>F95</sup> an individual and his spouse or civil partner living with him], as being

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the residence of a dependent relative of the claimant or of the claimant's [<sup>F96</sup>spouse or civil partner] at any one time.

<sup>F97</sup>(5) .....

(6) In this section “dependent relative” means, in relation to an individual—

- (a) any relative of his or of his wife who is incapacitated by old age or infirmity from maintaining himself, or
- (b) his or his wife's mother who, whether or not incapacitated, is either widowed, or living apart from her husband, or a single woman in consequence of dissolution or annulment of marriage.

(7) If the individual mentioned in subsection (6) above is a woman the references in that subsection to the individual's wife shall be construed as references to the individual's husband.

#### Textual Amendments

- F95** Words in s. 226(4) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **118(a)**
- F96** Words in s. 226(4) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **118(b)**
- F97** S. 226(5) repealed (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), Sch. 20 para. 61, **Sch. 41 Pt. V(10)**

#### [<sup>F98</sup>**226A**Private residence relief: cases where relief obtained under section 260

(1) This section applies where—

- (a) section 223 applies, or would apart from this section apply, in relation to a gain or part of a gain accruing to an individual or the trustees of a settlement (“the transferor”) on a disposal (the “later disposal”),
- (b) in computing the chargeable gain which would, apart from section 223, accrue to the transferor on the later disposal, the allowable expenditure would fall to be reduced, and
- (c) that reduction would to any extent fall to be made in consequence, directly or indirectly, of a claim or claims under section 260 in respect of one or more earlier disposals (whether or not made to the transferor).

(2) If a claim for relief under section 260 in respect of—

- (a) the earlier disposal, or
- (b) if there were two or more such disposals, any of them,

is made on or before the making of the later disposal, section 223 shall not apply in relation to the gain or part of a gain accruing on the later disposal.

(3) If a claim for relief under section 260 in respect of—

- (a) the earlier disposal, or
- (b) if there were two or more such disposals, any of them,

is made after the making of the later disposal and subsection (2) above does not apply, it is to be assumed for the purposes of capital gains tax that section 223 never applied in relation to the gain or part of a gain accruing on the later disposal.



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- (4) All such adjustments shall be made, whether by discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to subsection (3) above (notwithstanding any limitation on the time within which any adjustment may be made).
- (5) Where the later disposal is made by the trustees of a settlement, the references in subsections (2) and (3) above to the making of the later disposal shall be read as references to the making of a claim for relief under section 223 in respect of the gain or part of a gain accruing on that disposal.
- (6) If a claim for relief under section 260 in respect of an earlier disposal is revoked, this section shall apply as if the claim had never been made.
- (7) This section is subject to section 226B (exception for maintenance funds for historic buildings).

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**Textual Amendments**

**F98** Ss. 226A, 226B inserted (with effect in accordance with Sch. 22 paras. 7(3)(4), 8 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 6](#)

**226B Exception to section 226A**

- (1) Section 226A shall not apply in relation to a later disposal made by the trustees of a settlement if the trustees have elected that section [F99508 of ITA 2007 (trustees' election in respect of income arising from heritage maintenance property)] shall have effect in the case of—
  - (a) the settlement, or
  - (b) any part of the settlement,in relation to each year of assessment in which a relevant earlier disposal is made.
- (2) In this section “relevant earlier disposal”, in relation to a later disposal, means an earlier disposal in respect of which a claim mentioned in section 226A(1)(c) is made.
- (3) This section is to be construed as one with section 226A.]

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**Textual Amendments**

**F98** Ss. 226A, 226B inserted (with effect in accordance with Sch. 22 paras. 7(3)(4), 8 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 22 para. 6](#)

**F99** Words in s. 226B(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 323](#) (with [Sch. 2](#))

**Changes to legislation:**

Taxation of Chargeable Gains Act 1992, Cross Heading: Private residences is up to date with all changes known to be in force on or before 09 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.

[View outstanding changes](#)

**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](#)