



# 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 <sup>[F17]</sup>or civil partner] to carry on a particular trade, profession or vocation, he or his spouse <sup>[F17]</sup>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<sup>[F19]</sup>; 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 <sup>[F20]</sup>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 <sup>[F21]</sup>or civil partner] has a material interest; or
  - (b) any person or persons together with whom the borrower or his spouse <sup>[F21]</sup>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 <sup>[F22]</sup>the meanings given by Chapter 2 of Part 3 of ITEPA 2003<sup>[F23]</sup>; and
  - (c) “armed forces accommodation allowance” means an allowance which is exempt from income tax by reason of section 297D of ITEPA 2003.]]
- (9) <sup>[F24]</sup>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 <sup>[F25]</sup>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)**

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**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)**)

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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\(7\)](#)[13](#)[14](#)
- 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](#)