



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART VII

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

##### *Employee share ownership trusts*

#### **228 Conditions for relief: supplementary.**

- (1) This section applies for the purposes of section 227.
- (2) The entitlement period is the period beginning with the disposal and ending on the expiry of 12 months beginning with the date of the disposal.
- (3) The acquisition period is the period beginning with the disposal and ending on the expiry of 6 months beginning with—
  - (a) the date of the disposal, or
  - (b) if later, the date on which the third condition (set out in section 227(4)) first becomes fulfilled.
- (4) The proscribed period is the period beginning with the disposal, and ending on—
  - (a) the date of the acquisition, or
  - (b) if later, the date on which the third condition (set out in section 227(4)) first becomes fulfilled.
- (5) All arrangements are unauthorised unless—
  - (a) they arise wholly from a restriction authorised by paragraph 7(2) of Schedule 5 to the <sup>M1</sup>Finance Act 1989, or
  - (b) they only allow one or both of the following as regards shares, interests or rights, namely, acquisition by [<sup>F1</sup>a beneficiary under the settlement] and appropriation under an approved profit sharing scheme.
- (6) An asset is a chargeable asset in relation to the claimant at a particular time if, were the asset to be disposed of at that time, any gain accruing to him on the disposal would be

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a chargeable gain [<sup>F2</sup>chargeable to capital gains tax or corporation tax on gains] unless (were he to dispose of the asset at that time) the claimant would fall to be regarded for the purposes of any double taxation relief arrangements as not liable in the United Kingdom to tax on any gains accruing to him on the disposal.

- (7) The question [<sup>F3</sup>whether a settlement is] at a particular time a qualifying employee share ownership trust shall be determined in accordance with Schedule 5 to the <sup>M2</sup>Finance Act 1989; and “chargeable event” in relation to trustees has the meaning given by section 69 of that Act.
- (8) The expressions “holding company”, “trading company” and “trading group” have the [<sup>F4</sup>same meaning as in section 165 (see section 165A)]; and “group” (except in the expression “trading group”) shall be construed in accordance with section 170.
- (9) “Ordinary share capital” in relation to the founding company means all the issued share capital (by whatever name called) of the company, other than capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company.
- [<sup>F5</sup>(10) Chapter 6 of Part 5 of CTA 2010 (group relief: equity holders and profits or assets available for distribution) applies for the purposes of section 227(4) as if—
- (a) the trustees were a company, and
  - (b) references to section 151(4)(a) and (b) of that Act were references to section 227(4) above.]

#### Textual Amendments

- F1** Words in s. 228(5)(b) substituted (with effect in accordance with Sch. 12 para. 22(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 12 para. 22(1)**
- F2** Words in s. 228(6) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), **Sch. 1 para. 75**
- F3** Words in s. 228(7) substituted (with effect in accordance with Sch. 12 para. 22(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 12 para. 22(2)**
- F4** Words in s. 228(8) substituted (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 2 para. 36**
- F5** S. 228(10) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 252** (with Sch. 2)

#### Marginal Citations

- M1** 1989 c. 26.  
**M2** 1989 c. 26.

**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](#)