



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART VII

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

##### *Charities and gifts of non-business assets etc.*

#### **260 Gifts on which inheritance tax is chargeable etc.**

(1) If—

- (a) an individual or the trustees of a settlement (“the transferor”) make a disposal within subsection (2) below of an asset,
  - (b) the asset is acquired by an individual or the trustees of a settlement (“the transferee”), and
  - (c) a claim for relief under this section is made by the transferor and the transferee or, where the trustees of a settlement are the transferee, by the transferor alone,
- then, subject to subsection (6) below and [F1sections 169[F2, 169B, 169C][F3, 261 and 261ZA]], subsection (3) below shall apply in relation to the disposal.

(2) A disposal is within this subsection if it is made otherwise than under a bargain at arm’s length and—

- (a) is a chargeable transfer within the meaning of the M1Inheritance Tax Act 1984 (or would be but for section 19 of that Act) and is not a potentially exempt transfer (within the meaning of that Act),
- (b) is an exempt transfer by virtue of—
  - (i) section 24 of that Act (transfers to political parties),
  - F4(ii) . . . . .
  - (iii) section 27 of that Act (transfers to maintenance funds for historic buildings etc.), or
  - (iv) section 30 of that Act (transfers of designated property),
- (c) is a disposition to which section 57A of that Act applies and by which the property disposed of becomes held on trusts of the kind referred to in

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- subsection (1)(b) of that section (maintenance funds for historic buildings etc.),
- (d) by virtue of subsection (4) of section 71 of that Act (accumulation and maintenance trusts) does not constitute an occasion on which inheritance tax is chargeable under that section,
- [<sup>F5</sup>(da) by virtue of subsection (2) of section 71B of that Act (trusts for bereaved minors) does not constitute an occasion on which inheritance tax is chargeable under that section,
- (db) by virtue of subsection (2) of section 71E of that Act (age 18-to-25 trusts) does not constitute an occasion on which inheritance tax is charged under that section,]
- (e) by virtue of section 78(1) of that Act (transfers of works of art etc.) does not constitute an occasion on which tax is chargeable under Chapter III of Part III of that Act, or
- (f) is a disposal of an asset comprised in a settlement where, as a result of the asset or part of it becoming comprised in another settlement, there is no charge, or a reduced charge, to inheritance tax by virtue of paragraph 9, 16 or 17 of Schedule 4 to that Act (transfers to maintenance funds for historic buildings etc.).
- (3) Where this subsection applies in relation to a disposal—
- (a) the amount of any chargeable gain which, apart from this section, would accrue to the transferor on the disposal, and
- (b) the amount of the consideration for which, apart from this section, the transferee would be regarded for the purposes of capital gains tax as having acquired the asset in question,
- shall each be reduced by an amount equal to the held-over gain on the disposal.
- (4) Subject to subsection (5) below, the reference in subsection (3) above to the held-over gain on a disposal is a reference to the chargeable gain which would have accrued on that disposal apart from this section.
- (5) In any case where—
- (a) there is actual consideration (as opposed to the consideration equal to the market value which is deemed to be given by virtue of any provision of this Act) for a disposal in respect of which a claim for relief is made under this section, and
- (b) that actual consideration exceeds the sums allowable as a deduction under section 38,
- the held-over gain on the disposal shall be reduced by the excess referred to in paragraph (b) above <sup>F6</sup>... .
- (6) Subsection (3) above does not apply in relation to a disposal of assets within section 115(1) on which a gain is deemed to accrue by virtue of section 116(10)(b).
- [<sup>F7</sup>(6ZA) Subsections (6ZB) and (6ZC) apply in any case where—
- (a) the disposal is a [<sup>F8</sup>direct or indirect disposal of UK land which meets the non-residence condition], and
- (b) the transferee is resident in the United Kingdom.

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(6ZB) Subsections (3) and (4) have effect in relation to the disposal as if the reference to “chargeable gain” were <sup>F9</sup>a reference to “so much of any gain accruing on the disposal as falls to be dealt with as mentioned in subsection (6ZD)(a) or (b)”].

(6ZC) Subsection (5) has effect in relation to the disposal as if the reference to “the excess referred to in paragraph (b) above” were a reference to <sup>F10</sup>“so much of the gain mentioned in subsection (6ZB)] which, ignoring this section and section 17(1), would accrue to the transferor on the disposal”.]

<sup>F11</sup>(6ZD) For the purposes of subsections (6ZA) to (6ZC) a disposal is a “direct or indirect disposal of UK land which meets the non-residence condition” if it is—

- (a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection, or
- (b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c).]

<sup>F12</sup>(6A) . . . . .

<sup>F13</sup>(6B) . . . . .

(7) In the case of a disposal within subsection (2)(a) above <sup>F14</sup>(whether or not subsection (3) above applies in relation to it)] there shall be allowed as a deduction in computing the chargeable gain accruing to the transferee on the disposal of the asset in question an amount equal to whichever is the lesser of—

- (a) the inheritance tax attributable to the value of the asset; and
- (b) the amount of the chargeable gain as computed apart from this subsection.

(8) Where an amount of inheritance tax is varied after it has been taken into account under subsection (7) above, all necessary adjustments shall be made, whether by the making of an assessment to capital gains tax or by the discharge or repayment of such tax.

(9) Where subsection (3) above applies in relation to a disposal which is deemed to occur by virtue of section 71(1) or 72(1), subsection (5) above shall not apply.

(10) Where a disposal is partly within subsection (2) above, or is a disposal within paragraph (f) of that subsection on which there is a reduced charge such as is mentioned in that paragraph, the preceding provisions of this section shall have effect in relation to an appropriate part of the disposal.

#### Textual Amendments

- F1** Words in s. 260(1) substituted (with effect in accordance with s. 90(5) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **s. 90(2)**
- F2** Words in s. 260(1) inserted (with effect in accordance with Sch. 21 para. 10(4) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 21 para. 5(2)**
- F3** Words in s. 260(1) substituted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), **Sch. 7 para. 31(2)**
- F4** S. 260(2)(b)(ii) repealed (with effect in accordance with Sch. 27 Pt. IV of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 27 Pt. IV**
- F5** S. 260(2)(da)(db) inserted (retrospective to 22.3.2006) by [Finance Act 2006 \(c. 25\)](#), **Sch. 20 paras. 29(2), 32**

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- F6** Words in s. 260(5) repealed (with effect in relation to disposals in the year 2003-04 and subsequent years of assessment in accordance with Sch. 27 Pt. III(31) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. III\(31\)](#)
- F7** S. 260(6ZA)-(6ZC) inserted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 7 para. 31\(3\)](#)
- F8** Words in s. 260(6ZA)(a) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 76\(2\)](#)
- F9** Words in s. 260(6ZB) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 76\(3\)](#)
- F10** Words in s. 260(6ZC) substituted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 76\(4\)](#)
- F11** S. 260(6ZD) inserted (with effect in accordance with Sch. 1 paras. 120, 123 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 1 para. 76\(5\)](#)
- F12** S. 260(6A) repealed (with effect in accordance with Sch. 21 para. 10(8) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 21 para. 5\(3\)](#), [Sch. 42 Pt. 2\(14\)](#)
- F13** S. 260(6B) repealed (with effect in accordance with Sch. 21 para. 10(8) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 21 para. 5\(4\)](#), [Sch. 42 Pt. 2\(14\)](#)
- F14** Words in s. 260(7) inserted (with effect in accordance with Sch. 21 para. 10(9) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 21 para. 5\(5\)](#)

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

- C1** S. 260 modified by The Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964), reg. 85Z3 (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2010/294](#), regs. 1(1), [21](#))

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**Marginal Citations**

- M1** [1984 c. 51](#).

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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](#)