



Income Tax Act 2007

2007 CHAPTER 3

PART 8

OTHER RELIEFS

CHAPTER 3

GIFTS OF SHARES, SECURITIES AND REAL PROPERTY TO CHARITIES ETC

Entitlement to relief

431 Relief for gifts of shares, securities and real property to charities etc

- (1) An individual who disposes of the whole of the beneficial interest in a qualifying investment (see section 432) to a charity is entitled to relief if—
 - (a) the disposal is otherwise than by way of a bargain made at arm's length, and
 - (b) the individual makes a claim.
- (2) The relief is given by deducting the relievable amount in calculating the individual's net income for the tax year in which the disposal is made (see Step 2 of the calculation in section 23).
- (3) For the calculation of the relievable amount, see section 434.
- (4) If the qualifying investment is a qualifying interest in land (see section 433), this section is subject to—
 - section 441 (certificates),
 - section 442 (qualifying interests in land held jointly),
 - section 443 (calculation of relievable amount where joint disposal), and
 - section 444 (disqualifying events).
- (5) See section 446 for bodies that are treated as charities for the purposes of this Chapter.

Status: Point in time view as at 01/01/2012.

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- (6) See subsection (7) of section 535 of ITTOIA 2005 (top slicing relief) for provision about how relief under this Chapter is to be ignored for the purpose of calculating relief under that section.
- [^{F1}(7) This Chapter is subject to section 809ZM (removal of income tax relief in respect of tainted charity donations etc).]

Textual Amendments

- F1** S. 431(7) inserted (19.7.2011) (with effect in accordance with Sch. 3 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 3 para. 11](#)

432 Meaning of “qualifying investment”

- (1) In this Chapter “qualifying investment” means—
 - (a) shares or securities which are listed [^{F2}on a recognised stock exchange or dealt in on any designated market in the United Kingdom],
 - (b) units in an authorised unit trust,
 - (c) shares in an open-ended investment company,
 - (d) an interest in an offshore fund, and
 - (e) a qualifying interest in land.
- (2) In this section—
 - [^{F3}“designated” means designated by an order made by the Commissioners for Her Majesty's Revenue and Customs for the purposes of subsection (1)(a),]
 - “offshore fund” has the same meaning as in Chapter 5 of Part 17 of ICTA (see sections 756A to 756C of that Act), and
 - “open-ended investment company” is to be read in accordance with [^{F4}sections 613 and 615 of CTA 2010].
- [^{F5}(3) An order under subsection (2) may—
 - (a) designate a market by name or by reference to any class or description of market, and
 - (b) vary or revoke a previous order under that subsection.]

Textual Amendments

- F2** Words in s. 432(1)(a) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 26 para. 12\(10\)\(a\)](#)
- F3** Words in s. 432(2) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 26 para. 12\(10\)\(b\)](#)
- F4** Words in s. 432(2) 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. 527](#) (with Sch. 2)
- F5** S. 432(3) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 26 para. 12\(10\)\(c\)](#)

433 Meaning of “qualifying interest in land”

- (1) In this Chapter “qualifying interest in land” means—
 - (a) a freehold interest in land in the United Kingdom, or
 - (b) a leasehold interest in land in the United Kingdom which is a term of years absolute.

This is subject to subsections (2) to (5).

- (2) Subsection (3) applies if an individual with a beneficial interest in a freehold or leasehold interest mentioned in subsection (1)(a) or (b) makes a disposal to a charity of—
 - (a) the whole of the beneficial interest, and
 - (b) an easement, servitude, right or privilege so far as benefiting the land in question.
- (3) The disposal mentioned in subsection (2)(b) is regarded for the purposes of this Chapter as a disposal by the individual of the whole of the individual's beneficial interest in a qualifying interest in land separate from the disposal mentioned in subsection (2)(a).
- (4) If an individual who has a freehold or leasehold interest in land in the United Kingdom grants a lease for a term of years absolute to a charity of the whole or part of that land, the grant of the lease is regarded for the purposes of this Chapter as a disposal by the individual of the whole of the beneficial interest in the leasehold interest so granted.
- (5) Neither an agreement to acquire a freehold interest nor an agreement for a lease is a qualifying interest in land.
- (6) In the application of this section to Scotland—
 - (a) references to a freehold interest in land are to the interest of the owner,
 - (b) references to a leasehold interest in land which is a term of years absolute are to a tenant's right over or interest in a property subject to a lease,
 - (c) references to an agreement for a lease do not include missives of let that constitute an actual lease, and
 - (d) in subsection (4) the reference to granting a lease for a term of years absolute is to granting a lease.

Amount of relief

434 The relievable amount

- (1) If the disposal is a gift, the relievable amount is given by the formula—

$$V + IC - B$$

where—

V is the value of the net benefit to the charity at, or immediately after, the time when the disposal is made, whichever is less,

IC is the amount of the incidental costs of making the disposal to the individual making it, and

B is the total value of any benefits received in consequence of making the disposal by the individual making the disposal or a person connected with the individual.

- (2) If the disposal is at an undervalue, the relievable amount is given by the formula—

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E + C – B

where—

E is the amount (if any) by which V (as defined in subsection (1)) exceeds the amount or value of the consideration for the disposal,

C is given by subsection (4), and

B is as defined in subsection (1).

(3) But if the amount given by the formula in subsection (1) or (2) is a negative amount, the relievable amount is nil.

(4) C is found by taking the following steps.

Step 1

Calculate the consideration for which the disposal is treated as made for the purposes of TCGA 1992 as a result of section 257(2)(a) of that Act (in case of disposal to charity etc, consideration to be such that no gain or loss accrues).

Step 2

Find the excess (if any) of the amount calculated at Step 1 over the amount or value of the consideration for the disposal.

If there is such an excess, C is the amount of that excess or, if less, the amount of the incidental costs of making the disposal to the individual making it.

If there is no such excess, C is nil.

(5) This section needs to be read with—

- (a) section 435 (incidental costs of making disposal),
- (b) section 436 (consideration), and
- (c) sections 437 to 440 (value of net benefit to charity).

435 Incidental costs of making disposal

References in section 434 to the incidental costs of making the disposal to the individual making it are to—

- (a) fees, commission or remuneration paid for the professional services of a surveyor, valuer, auctioneer, accountant, agent or legal adviser which are wholly and exclusively incurred by the individual for the purposes of the disposal,
- (b) costs of transfer or conveyance wholly and exclusively incurred by the individual for the purposes of the disposal,
- (c) costs of advertising to find a buyer, and
- (d) costs reasonably incurred in making any valuation or apportionment required for the purposes of this Chapter.

436 Consideration

- (1) For the purposes of the formula in section 434(2) consideration for the disposal is brought into account—
 - (a) without any discount for postponement of the right to receive any part of it,
 - (b) in the first instance, without regard to a risk of any part of it being irrecoverable, and
 - (c) in the first instance, without regard to the right to receive any part of it being contingent.
- (2) If—
 - (a) any part of the consideration so brought into account subsequently proves to be irrecoverable, and
 - (b) a claim is made,such adjustment as is required in consequence must be made.
- (3) An adjustment under subsection (2) may be made by way of discharge or repayment of tax or otherwise.

Value of net benefit to charity

437 Value of net benefit to charity

- (1) For the purposes of this Chapter the value of the net benefit to a charity is—
 - (a) the [F⁶relevant] value of the qualifying investment, or
 - (b) if the charity is, or becomes, subject to a disposal-related obligation, the [F⁶relevant] value of the qualifying investment reduced by the total amount of the disposal-related liabilities of the charity.
- [F⁷(1A) In subsection (1) “relevant value” means—
 - (a) where subsection (1B) applies, the lower of the market value and the acquisition value, and
 - (b) otherwise, the market value.
- (1B) This subsection applies where—
 - (a) the qualifying investment, or anything from which it derives or which it represents (whether in whole or in part and whether directly or indirectly), was acquired by the individual making the disposal within the period of 4 years ending with the day on which the disposal is made,
 - (b) the acquisition was made as part of a scheme, and
 - (c) the main purpose, or one of the main purposes, of the individual in entering into the scheme was to obtain relief, or an increased amount of relief, under this Chapter.
- (1C) In subsection (1B) “scheme” includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.]
- (2) This section is supplemented by—
 - section 438 (market value of qualifying investments),
 - [F⁸section 438A (acquisition value of qualifying investments),]
 - section 439 (meaning of “disposal-related obligation”), and

Status: Point in time view as at 01/01/2012.

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section 440 (meaning and amount of “disposal-related liability”).

Textual Amendments

- F6** Word in s. 437(1) substituted (8.4.2010 with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\), Sch. 7 para. 2\(2\)](#)
- F7** S. 437(1A)-(1C) inserted (8.4.2010 with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\), Sch. 7 para. 2\(3\)](#)
- F8** Words in s. 437(2) inserted (8.4.2010 with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\), Sch. 7 para. 2\(4\)](#)

438 Market value of qualifying investments

- (1) The market value of a qualifying investment for the purposes of this Chapter is determined in accordance with sections 272 to 274 of TCGA 1992 (subject to Part 1 of Schedule 11 to that Act).
- (2) But, in the case of an interest in an offshore fund for which separate buying and selling prices are published regularly by the managers of the fund, the market value for the purposes of this Chapter is equal to the buying price (that is the lower price) published on—
 - (a) the day of the disposal, or
 - (b) if none were published on that day, on the latest day on which the prices were published before that day.

[^{F9}] 438A Acquisition value of qualifying investments

- (1) For the purposes of this Chapter the acquisition value of a qualifying investment disposed of by an individual is—
 - (a) where the qualifying investment was acquired by the individual within the period of 4 years ending with the day on which the disposal is made, the cost to the individual of acquiring it, or
 - (b) where something from which the qualifying investment derives or which it represents was so acquired, such proportion of the cost to the individual of acquiring that thing as is just and reasonable to attribute to the qualifying investment.
- (2) A reference in subsection (1) to the cost to the individual of an acquisition is to—
 - (a) the consideration given by the individual for the acquisition, less
 - (b) any amount that is received in connection with the acquisition, by the individual or a person connected with the individual, as part of the scheme in question.]

Textual Amendments

- F9** S. 438A inserted (8.4.2010 with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\), Sch. 7 para. 3](#)

439 Meaning of “disposal-related obligation”

- (1) In this Chapter an obligation is a “disposal-related obligation”, in relation to a qualifying investment, if condition A or condition B is met in relation to it.
 - (2) The obligation may be to any person (whether or not the individual making the disposal or a person connected with the individual).
 - (3) Condition A is that it is reasonable to suppose that the disposal of the qualifying investment to the charity would not have been made in the absence of the obligation.
 - (4) Condition B is that the obligation (whether in whole or in part) relates to, is framed by reference to, or is conditional on the charity receiving, the qualifying investment or a disposal-related investment.
- (5) In applying condition A, all the circumstances must be taken into account (including, in particular, the difference in the value of the net benefit to the charity calculated under section 437(1)(a) and that value calculated under section 437(1)(b)).
- (6) In subsection (4) “disposal-related investment” means any of the following—
 - (a) an asset of the same class or description as the qualifying investment (irrespective of size, quantity or amount),
 - (b) an asset derived from, or representing, the qualifying investment, whether in whole or in part and whether directly or indirectly, and
 - (c) an asset from which the qualifying investment is derived, or which the qualifying investment represents, whether in whole or in part and whether directly or indirectly.
- (7) In this Chapter “obligation” includes a reference to each of the following—
 - (a) a scheme, arrangement or understanding of any kind, whether or not legally enforceable, and
 - (b) a series of obligations (whether or not between the same parties).

440 Meaning and amount of “disposal-related liability”

- (1) In this Chapter a liability is a “disposal-related liability” in the case of a qualifying investment if it is a liability of the charity under a disposal-related obligation in relation to the qualifying investment.
- (2) If the disposal-related obligation is contingent, the amount to be brought into account for the purposes of section 437 at any time in respect of the disposal-related liability, so far as contingent, is—
 - (a) if the contingency occurs, the amount or value of the liability actually incurred in consequence of the occurrence of the contingency, or
 - (b) if the contingency does not occur, nil.

Special provisions about qualifying interests in land

441 Certificate required from charity

- (1) This section applies if the qualifying investment is a qualifying interest in land.
- (2) No individual may make a claim for relief under this Chapter unless the individual has received a certificate given by or on behalf of the charity.

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- (3) The certificate must—
 - (a) describe the qualifying interest in land,
 - (b) specify the date of the disposal, and
 - (c) state that the charity has acquired the qualifying interest in land.

442 Qualifying interests in land held jointly

- (1) This section applies if the qualifying investment is a qualifying interest in land.
- (2) It applies if two or more persons (“the owners”—
 - (a) are jointly beneficially entitled to the qualifying interest in land, or
 - (b) are, taken together, beneficially entitled in common to the qualifying interest in land.
- (3) Relief under this Chapter is available if—
 - (a) at least one of the owners is an individual, and
 - (b) all the owners dispose of the whole of their beneficial interests in the qualifying interest in land to the charity.
- (4) Relief under this Chapter is available to each of the owners who is an individual.
- (5) The amount of relief under this Chapter to be given to an individual is such share of the relieviable amount as is allocated to the individual by an agreement made between those owners who are—
 - (a) individuals, or
 - (b) qualifying companies.
- (6) A company is a qualifying company if—
 - (a) it is not itself a charity, and
 - F10(b)
- (7) If one or more of the owners is not an individual—
 - (a) for the purpose of determining whether the owners' beneficial interests are disposed of as mentioned in subsection (3)(b) of this section, subsections (2) to (4) of section 433 apply as if references to an individual included a reference to a person who is not an individual, and
 - (b) the total amount of relief [F11 given, because of the disposal of the qualifying interest in land, under this Chapter and as a result of Chapter 3 of Part 6 of CTA 2010] is not to exceed the relieviable amount.

Textual Amendments

F10 S. 442(6)(b) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 27 Pt. 2\(10\)](#)

F11 Words in s. 442(7)(b) 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. 528](#) (with Sch. 2)

443 Calculation of relieviable amount where joint disposal of interest in land

- (1) This section applies for the purpose of calculating the relieviable amount in a case where relief under this Chapter is available as a result of section 442(3).

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- (2) Calculate the relievable amount as if—
- (a) the owners were a single individual, and
 - (b) the disposals of the owners' beneficial interests were a single disposal by that single individual of the whole of the beneficial interest in the qualifying interest in land.
- (3) In particular, calculate the consideration mentioned at Step 1 in section 434(4) by—
- (a) calculating, for each owner, the consideration for which the disposal of the owner's beneficial interest is treated as made for the purposes of TCGA 1992 as a result of section 257(2)(a) of that Act, and
 - (b) adding together all the consideration calculated under paragraph (a).
- (4) Subsection (5) applies if one or more of the owners is neither—
- (a) an individual, nor
 - (b) a qualifying company (see section 442(6)).
- (5) In calculating the relievable amount make just and reasonable adjustments to reduce the relievable amount to reflect the fact that relief under this Chapter or [^{F12}as a result of Chapter 3 of Part 6 of CTA 2010] is not available to that owner or to those owners.

^{F13}(6)

Textual Amendments

F12 Words in s. 443(5) 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. 529](#) (with Sch. 2)

F13 S. 443(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 27 Pt. 2\(10\)](#)

444 Disqualifying events

- (1) This section applies if the qualifying investment is a qualifying interest in land.
- (2) If a disqualifying event occurs at any time in the provisional period, the following are treated as never having been entitled to relief under this Chapter in respect of the disposal of the qualifying interest in land—
- (a) in a case to which section 442 does not apply, the individual who made the disposal, or
 - (b) in a case to which section 442 applies, each individual who is an owner.
- (3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (2).
- (4) A disqualifying event occurs if a person mentioned in subsection (5) becomes, otherwise than for full consideration in money or money's worth—
- (a) entitled to an interest or right in relation to all or part of the land to which the disposal relates, or
 - (b) party to an arrangement under which the person enjoys some right in relation to all or part of that land.
- (5) The persons are—
- (a) in a case to which section 442 does not apply—
 - (i) the individual who made the disposal, or

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- (ii) a person connected with that individual, and
- (b) in a case to which section 442 applies—
 - (i) a person who is an owner, or
 - (ii) a person connected with such a person.
- (6) A disqualifying event does not occur if a person becomes entitled to an interest or right as mentioned in subsection (4)(a) as a result of a disposition of property on death (whether the disposition is effected by will, under the law relating to intestacy or otherwise).
- (7) “The provisional period” is the period beginning with the date of the disposal of the qualifying interest in land and ending with the fifth anniversary of the normal self-assessment filing date for the tax year in which the disposal was made.

Supplementary

445 Prohibition against double relief

- (1) If a claim is made for relief under this Chapter in respect of a disposal—
 - (a) section 108 of ITTOIA 2005 (gifts of trading stock to charities etc) does not apply in relation to the disposal, and
 - (b) no relief in respect of the disposal is allowable under any other provision of the Income Tax Acts.
- (2) For the effect on capital gains tax or corporation tax on chargeable gains where an individual is entitled to relief under this Chapter, see section 257(2A) to (2C) of TCGA 1992 (gifts to charities etc).

446 “Charity” to include exempt bodies

In this Chapter “charity” includes—

- (a) the Trustees of the National Heritage Memorial Fund,
- (b) the Historic Buildings and Monuments Commission for England, and
- (c) the National Endowment for Science, Technology and the Arts.

Status:

Point in time view as at 01/01/2012.

Changes to legislation:

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