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STATUTORY INSTRUMENTS

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**2010 No. 157**

**The Enactment of Extra-Statutory Concessions Order 2010**

**Relief for exchanges of joint interests**

**8.—**(1) In the Taxation of Chargeable Gains Act 1992, after section 248 insert—  
“Joint interests in land

**248A Roll-over relief on disposal of joint interests in land: conditions**

- (1) Section 248B applies where conditions A to E are met.
- (2) Condition A is that a person (“the landowner”) and one or more other persons jointly hold—
  - (a) a holding of land, or
  - (b) two or more separate holdings of land.
- (3) Condition B is that the landowner disposes of an interest (“the relinquished interest”) in—
  - (a) the holding, or
  - (b) one or more of the holdings,to the co-owner or to one or more of the co-owners.
- (4) Condition C is that the consideration for the disposal is or includes an interest (“the acquired interest”) in a holding of land held jointly by the landowner and one or more of the co-owners.
- (5) Condition D is that as a consequence of the disposal (taken together with any related disposals) the landowner and each of the co-owners become—
  - (a) in a case falling within subsection (2)(a), the sole owner of part of the holding, or
  - (b) in a case falling within subsection (2)(b), the sole owner of one or more of the holdings.
- (6) Condition E is that the acquired interest is not an interest in excluded land (see section 248C).
- (7) For the purposes of this section—
  - (a) references to a holding of land include references to an estate or interest in a holding of land, and are to be read in accordance with section 243(3);
  - (b) references to holding land jointly are to holding land—
    - (i) in England and Wales, as joint tenants or tenants in common,
    - (ii) in Scotland, as joint owners or owners in common, or
    - (iii) in Northern Ireland, as joint tenants, tenants in common or coparceners;
  - (c) “co-owner” means any person who holds a holding of land jointly with the landowner;

- (d) a related disposal (in relation to a disposal mentioned in condition B) is a disposal of an interest in the holding, or in one or more of the holdings, which is made—
  - (i) by the landowner to a co-owner, or
  - (ii) by a co-owner to the landowner or another co-owner,
 at the same time as the disposal mentioned in that condition;
- (e) spouses who are living together, or civil partners who are living together, are together treated as a landowner or a co-owner.

### **248B Calculation of relief**

(1) In a case where the amount or value of the consideration for the disposal of the relinquished interest is equal to or less than the market value of that interest, the landowner, on making a claim, is to be treated for the purposes of this Act—

- (a) as if the consideration for the disposal of the relinquished interest were of such amount as would secure that on the disposal neither a gain nor a loss accrues, and
- (b) as if the amount or value of the consideration for the acquisition of the acquired interest were reduced by the excess of the amount or value of the actual consideration for the disposal of the relinquished interest over the amount of the consideration which the landowner is treated as receiving under paragraph (a).

(2) In a case where the amount or value of the consideration for the disposal of the relinquished interest exceeds the market value of that interest, then if the excess (“the excess consideration”) is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the relinquished interest, the landowner, on making a claim, is to be treated for the purposes of this Act—

- (a) as if the amount of the gain so accruing were reduced to the amount of the excess consideration (and, if not all chargeable gain, with a proportionate reduction in the amount of the chargeable gain), and
- (b) as if the amount or value of the consideration for the acquisition of the acquired interest were reduced by the amount by which the gain is reduced (or, as the case may be, the amount by which the chargeable gain is proportionately reduced) under paragraph (a).

(3) Subsections (1) and (2) are subject to section 248C(3).

(4) Nothing in subsection (1) or (2) affects the treatment for the purposes of this Act of a co-owner (within the meaning given by section 248A(7)).

(5) Where subsection (1)(a) applies to exclude a gain which, in consequence of Schedule 2 (assets held on 6th April 1965) is not all chargeable gain, the amount of the reduction to be made under subsection (1)(b) shall be the amount of the chargeable gain, and not the whole amount of the gain.

### **248C Excluded land**

(1) Land is excluded land to the extent that—

- (a) it is a dwelling-house or part of a dwelling-house (or an interest in or right over a dwelling-house), and
- (b) by virtue of, or of any claim under, any provision of sections 222 to 226 (private residences) the whole or any part of a gain accruing on a disposal of it by the landowner at a material time would not be a chargeable gain.

(2) In subsection (1)(b), “a material time” means any time during the period of 6 years beginning on the date of the acquisition of the acquired interest.

(3) If land was not excluded land at the date of the acquisition of the acquired interest but becomes excluded land within 6 years of the acquisition, the amount of any chargeable gain accruing on the disposal of the relinquished interest shall be re-determined without regard to any relief previously given under section 248B by reference to the amount or value of the consideration for the acquisition of the interest in that land.

(4) Any adjustments of capital gains tax in accordance with subsection (3), whether by way of assessment or otherwise, may be made at any time, despite anything in section 34 of the Management Act(1) (time limit for assessments).

(5) Expressions used in this section have the same meaning as in section 248A.

#### **248D Milk quotas**

(1) This section applies where—

- (a) section 248B applies to a holding (or holdings) of land, and
- (b) milk quota is associated with the holding in which the relinquished interest is held and with the holding in which the acquired interest is held.

(2) Section 248B(1), (2) and (4) apply—

- (a) to the disposal of quota associated with the holding in which the relinquished interest is held as they apply to the disposal of that interest, and
- (b) to the acquisition of quota associated with the holding in which the acquired interest is held as they apply to the acquisition of that interest.

#### **248E Relief on disposal of joint interests in private residence**

(1) This section applies where conditions A to E are met.

(2) Condition A is that a person (“the landowner”) and one or more other persons jointly hold an interest in two or more dwelling-houses.

(3) Condition B is that the landowner disposes of an interest (“the relinquished interest”) in one or more of the dwelling-houses to the co-owner or to one or more of the co-owners.

(4) Condition C is that the consideration for the disposal is or includes an interest (“the acquired interest”) in one of the other dwelling-houses.

(5) Condition D is that as a consequence of the disposal (taken together with any related disposals)—

- (a) the dwelling-house in which the landowner acquires an interest becomes the only or main residence of the landowner, and
- (b) each of the other dwelling-houses becomes the only or main residence of one (and only one) of the co-owners.

(6) Condition E is that if each dwelling-house were disposed of immediately after the disposal (or disposals) mentioned in subsection (5) then by virtue of sections 222 and 223 (private residences) no part of the gain accruing on each of those disposals would be a chargeable gain.

(7) The landowner, on making a claim jointly with the co-owner or co-owners, shall be treated for the purposes of this Act—

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(1) Section 288 of the [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#) defines “the Management Act” as meaning the [Taxes Management Act 1970 \(c. 9\)](#).

- (a) as if the consideration for the disposal of the relinquished interest were of such amount as would secure that on the disposal neither a gain nor a loss accrues, and
- (b) as if the acquired interest were acquired by the landowner—
  - (i) at the time it was acquired jointly by the landowner and the co-owner or co-owners, and
  - (ii) for a consideration equal to the amount of the sums that would have been allowable under section 38(1)(a) and (b) (acquisition and disposal costs etc) as a deduction in the computation of any gain on a disposal of the acquired interest by the co-owner or co-owners.
- (8) For the purposes of this section—
  - (a) “co-owner” means any person who holds an interest in a dwelling-house jointly with the landowner;
  - (b) references to holding land jointly are to holding land—
    - (i) in England and Wales, as joint tenants or tenants in common,
    - (ii) in Scotland, as joint owners or owners in common, or
    - (iii) in Northern Ireland, as joint tenants, tenants in common or coparceners;
  - (c) a related disposal (in relation to a disposal mentioned in condition B) is a disposal of an interest in a dwelling-house which is made—
    - (i) by the landowner to a co-owner, or
    - (ii) by a co-owner to the landowner or another co-owner, at the same time as the disposal mentioned in that condition;
  - (d) spouses who are living together, or civil partners who are living together, are together treated as a landowner or a co-owner.”.

(2) The amendment made by paragraph (1) has effect in relation to disposals on or after 6th April 2010.