

Persons chargeable. CGTA75 s4(1) to (4) and (6) to (8), s51(1) and Sch4 par2(2); FA77 s54(1)(a) and Sch2 Ptl 29.—(1) In this section—

“designated area” means an area designated by order under section 2 of the Continental Shelf Act, 1968 ;

“exploration or exploitation rights” has the same meaning as in section 13;

“shares” includes stock and any security;

“security” includes securities not creating or evidencing a charge on assets, and interest paid by a company on money advanced without the issue of a security for the advance, or other consideration given by a company for the use of money so advanced, shall be treated as if paid or given in respect of a security issued for the advance by the company;

references to the disposal of assets mentioned in paragraphs (a) and (b) of subsection (3) and in subsection (6) include references to the disposal of shares deriving their value or the greater part of their value directly or indirectly from those assets, other than shares quoted on a stock exchange.

(2) Subject to any exceptions in the Capital Gains Tax Acts, a person shall be chargeable to capital gains tax in respect of chargeable gains accruing to such person in a year of assessment for which such person is resident or ordinarily resident in the State.

(3) Subject to any exceptions in the Capital Gains Tax Acts, a person who is neither resident nor ordinarily resident in the State shall be chargeable to capital gains tax for a year of assessment in respect of chargeable gains accruing to such person in that year on the disposal of—

(a) land in the State,

(b) minerals in the State or any rights, interests or other assets in relation to mining or minerals or the searching for minerals,

(c) assets situated in the State which at or before the time when the chargeable gains accrued were used in or for the purposes of a trade carried on by such person in the State through a branch or agency, or which at or before that time were used or held or acquired for use by or for the purposes of the branch or agency.

(4) Subsection (2) shall not apply in respect of chargeable gains accruing from the disposal of assets situated outside the State and the United Kingdom to an individual who satisfies the Revenue Commissioners that he or she is not domiciled in the State; but—

(a) the tax shall be charged on the amounts received in the State in respect of those chargeable gains,

(b) any such amounts shall be treated for the purposes of the Capital Gains Tax Acts as gains accruing when they are received in the State, and

(c) any losses accruing to the individual on the disposal of assets situated outside the State and the United Kingdom shall not be allowable losses for the purposes of the Capital Gains Tax Acts.

(5) For the purposes of subsection (4), all amounts paid, used or enjoyed in or in any manner or form transmitted or brought to the State shall be treated as received in the State in respect of any gain, and section 72 shall apply as it would apply if the gain were income arising from possessions outside of the State.

(6) Any gains accruing on the disposal of exploration or exploitation rights in a designated area shall be treated for the purposes of the Capital Gains Tax Acts as gains accruing on the disposal of assets situated in the State.

(7) Any gains accruing to a person who is neither resident nor ordinarily resident in the State on the disposal of assets mentioned in subsections (3)(b) and (6) shall be treated for the purposes of capital gains tax as gains accruing on the disposal of assets used for the purposes of a trade carried on by that person in the State through a branch or agency.

(8) Any person aggrieved by a decision of the Revenue Commissioners on any question as to domicile or ordinary residence arising under the Capital Gains Tax Acts may, by notice in writing to that effect given to the Revenue Commissioners within 2 months from the date on which notice of the decision is given to such person, make an application to have such person's claim for relief heard and determined by the Appeal Commissioners.

(9) Where an application is made under subsection (8), the Appeal Commissioners shall hear and determine the claim in the like manner as an appeal made to them against an assessment, and the provisions of the Income Tax Acts relating to such an appeal (including the provisions relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with any necessary modifications.