

Tax to be charged under Case IV on gains from certain disposals of land. F(MP)A68 s20; FA81 s29(3) 643.—(1)  
In this section and in section 644—

“capital amount” means any amount in money or money's worth which apart from this section is not to be included in any computation of income for the purposes of the Tax Acts, and other expressions which include the word “capital” shall be construed accordingly;

“chargeable period” means an accounting period of a company or a year of assessment;

“land” includes any interest in land, and references to the land include references to all or any part of the land;

“share” includes stock;

references to property deriving its value from land include references to—

(a) any shareholding in a company, or any partnership interest, or any interest in settled property, deriving its value or the greater part of its value directly or indirectly from land, and

(b) any option, consent or embargo affecting the disposition of land.

(2) This section shall not apply to a gain accruing to an individual which by virtue of section 604 is exempt from capital gains tax or which would be so exempt but for subsection (14) of that section.

(3) This section shall apply in any case where—

(a) land or any property deriving its value from land is acquired with the sole or main object of realising a gain from disposing of the land,

(b) land is held as trading stock, or

(c) land is developed by a company with the sole or main object of realising a gain from disposing of the land when developed,

and any gain of a capital nature is obtained from disposing of the land—

(i) by the person acquiring, holding or developing the land, or by a person connected with that person,  
or

(ii) where any arrangement or scheme is effected as respects the land which enables the gain to be realised directly or indirectly by any transaction, or by any series of transactions, by any person who is a party to or concerned in the arrangement or scheme,

and this subsection shall apply whether that gain is obtained by any such person for that person's benefit or for the benefit of any other person.

(4) Where this section applies, the whole of any gain mentioned in subsection (3) shall for the purposes of the Tax Acts be treated—

(a) as being income which arises at the time when the gain is realised and which constitutes profits or gains chargeable to tax under Case IV of Schedule D for the chargeable period in which the gain is realised, and

(b) subject to subsections (5) to (17), as being income of the person by whom the gain is realised.

(5) For the purposes of this section, land shall be treated as disposed of if, by any one or more transactions or by any arrangement or scheme, whether concerning the land or property deriving its value from the land, the property in the land or control over the land is effectively disposed of, and references in subsection (3) to the acquisition or development of land or property with the sole or main object of realising a gain from disposing of the land shall be construed accordingly.

(6) For the purposes of this section—

(a) where, whether by a premature sale or otherwise, a person directly or indirectly makes available to another person the opportunity of realising a gain, the gain of that other person shall be treated as having been obtained for that other person by the first-mentioned person, and

(b) any number of transactions may be regarded as constituting a single arrangement or scheme if a common purpose is discerned in those transactions or if there is other sufficient evidence of a common purpose.

(7) In applying this section, account shall be taken of any method, direct or indirect, by which—

(a) any property or right is transferred or transmitted to another person, or

(b) the value of any property or right is enhanced or diminished,

and accordingly the occasion of the transfer or transmission of any property or right by whatever method and the occasion when the value of any property or right is enhanced may be treated as an occasion on which tax becomes chargeable under this section.

(8) Subsection (7) shall apply in particular to—

(a) sales, contracts and other transactions made otherwise than for full consideration or for more than full consideration,

(b) any method by which any property or right, or the control of any property or right, is transferred or transmitted to any person by assigning—

(i) share capital or other rights in a company,

(ii) rights in a partnership, or

(iii) an interest in settled property,

(c) the creation of any option or consent or embargo affecting the disposition of any property or right, and to the consideration given for the option, or for the giving of the consent or the release of the embargo, and

(d) the disposal of any property or right on the winding up, dissolution or termination of any company, partnership or trust.

(9) For the purposes of this section, such method of computing a gain shall be adopted as is just and reasonable in the circumstances, taking into account the value of what is obtained for disposing of the land and allowing only such expenses as are attributable to the land disposed of, and in applying this subsection—

(a) where an interest in land is acquired and the reversion is retained on disposal, account may be taken of the way in which the profits or gains under Case I of Schedule D of a person dealing in land are computed in such a case, and

(b) account may be taken of the adjustments to be made in computing such profits or gains under sections 99 (2) and 100 (4).

(10) Paragraph (c) of subsection (3) shall not apply to so much of any gain as is fairly attributable to the period, if any, before the intention to develop that land was formed, and which would not be within paragraph (a) or (b) of that subsection, and in applying this subsection account shall be taken of the treatment under Case I of Schedule D of a person who appropriates land as trading stock.

(11) If all or any part of the gain accruing to any person is derived from value, or an opportunity of realising a gain, provided directly or indirectly by some other person (whether or not put at the disposal of the first-mentioned person), subsection (4)(b) shall apply to the gain or that part of the gain with the substitution of that other person for the person by whom the gain was realised.

(12) Where there is a disposal of shares in—

(a) a company which holds land as trading stock, or

(b) a company which owns directly or indirectly 90 per cent or more of the ordinary share capital of another company which holds land as trading stock,

and all the land so held is disposed of in the normal course of its trade by the company which held the land, and so as to procure that all opportunity of profit in respect of the land arises to that company, then, notwithstanding subsection (3)(i), this section shall not apply to any gain accruing to the holder of shares as being a gain on property deriving value from that land (but without prejudice to any liability

under subsection (3)(ii)).

(13) In ascertaining for the purposes of this section the intentions of any person, the objects and powers of any company, partners or trustees, as set out in any memorandum or articles of association or other document, shall not be conclusive.

(14) For the purposes of ascertaining whether and to what extent the value of any property or right is derived from any other property or right, value may be traced through any number of companies, partnerships and trusts, and the property held by any company, partnership or trust shall be attributed to the shareholders, partners or beneficiaries at each stage in such manner as is just and reasonable.

(15) In applying this section—

(a) any expenditure, receipt, consideration or other amount may be apportioned by such method as is just and reasonable, and

(b) all such valuations shall be made as may be necessary to give effect to this section.

(16) For the purposes of this section, partners, trustees of settled property or personal representatives may be regarded as persons distinct from the individuals or other persons who are for the time being partners, trustees or personal representatives.

(17) This section shall apply to a person, whether resident in the State or not, if all or any part of the land in question is situated in the State.