

2013 No. 557

CAPITAL GAINS TAX

The Capital Gains Tax (Amendment) Regulations 2013

Made - - - - *11th March 2013*

Laid before the House of Commons *13th March 2013*

Coming into force - - *6th April 2013*

The Commissioners for Her Majesty's Revenue and Customs make these Regulations in exercise of the powers conferred by section 57 of the Taxes Management Act 1970(a).

1. These Regulations may be cited as the Capital Gains Tax (Amendment) Regulations 2013 and come into force on 6th April 2013.

Amendment to the Capital Gains Tax Regulations 1967

2.—(1) Regulation 15 of the Capital Gains Tax Regulations 1967(b) is amended as follows.

(2) For paragraph (b) substitute—

“(b) A person shall not be treated as being at any date a person whose liability to capital gains tax may be affected by the market value of an asset or by the apportionment of any amount or value paid, payable or ascertained in connection with an asset unless on or before that date, but since 6th April 1965, there has been (or is deemed to have been) a disposal or acquisition of the asset by that person, or by personal representatives from whom they may acquire the asset as legatee, or by a company or trustees whose chargeable gains may to any extent be treated as accruing to that person under section 13 (attribution of gains to members of non-resident companies)(c), 86 (attribution of gains to settlors with interest in non-resident or dual resident settlements)(d) or 87 (non-UK resident settlements:

(a) 1970 c. 9; section 57 has been relevantly amended by Part III of Schedule 14 to the Finance Act 1971 (c. 68), Schedule 8 to the Capital Gains Tax Act 1979 (c. 14) and paragraph 2(1) and (2) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c.12). In addition, Article 3 and paragraph 37 of Schedule 1 of S.I. 2009/56 amended section 57 so that the Commissioners for Her Majesty's Revenue and Customs have the power to make these Regulations.

(b) S.I. 1967/149; there are amending instruments but none are relevant.

(c) 1992 c. 12; section 13 has been amended by sections 174(1) to (9) and (11), 205 of, and Part V(30) of Schedule 41 to, the Finance Act 1996 (c. 8); sections 121(3) and 122(4) of, and paragraph 4 of Schedule 21 to, the Finance Act 1998 (c. 36); section 80 of the Finance Act 2001 (c. 9); section 141 of, and Part 3(16) of Schedule 40 to, the Finance Act 2002 (c. 23); section 155(1) of, and paragraphs 2(1) and (3) of Schedule 27 to, the Finance Act 2003 (c. 14); section 281(1) of, and paragraphs 38 and 39 of Schedule 35 to, the Finance Act 2004 (c. 12); section 88 of, and paragraphs 7, 8(1) of Part 3 of Schedule 12 to, the Finance Act 2006 (c. 25); section 8(2) of, and paragraphs 1, 4, 23 and 28 of Schedule 2, and section 25 of, and paragraph 103 of Part 2 of Schedule 7 to, the Finance Act 2008 (c. 9); section 1177 of, and paragraphs 225 and 227 of Part 2 of Schedule 1 to, the Corporation Tax Act 2010 (c. 4); sections 35(1) and (2) of the Finance Act 2012 (c. 14); and article 3(1) of, and paragraphs 177 and 178 of Schedule 1 to, 2009/56.

(d) Section 86 has been amended by section 121(3) of, and paragraph 6(2) of Schedule 21 to, the Finance Act 1998 (c. 36); section 141 of, and Part 3(4) of Schedule 40 to, the Finance Act 2002 (c. 23); section 88 of, and paragraphs 7, 30(1), 30(2)(b), 34(1), 34(2)(c), 35(1)(a) and (b), 35(2)(a) of Part 3 of Schedule 12 to, the Finance Act 2006 (c. 25); and section 8(2) of, and paragraphs 23 and 30 of Schedule 2 to, the Finance Act 2008 (c. 9).

attribution of gains to beneficiaries)(a) of the Taxation of Chargeable Gains Act 1992.”

Ruth Owen
Jennie Granger

11th March 2013

Two of the Commissioners for Her Majesty’s Revenue and Customs

(a) Section 87 has been amended by section 25 of, and paragraphs 106 and 108 of Schedule 7 to, the Finance Act 2008 (c. 9).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulation 15 of the Capital Gains Tax Regulations 1967 (S.I. 1967/149). Regulation 15 sets out the interpretation of certain expressions in the Capital Gains Tax Regulations 1967 (“the Principal Regulations”). Regulation 15(b) provides that a person shall not be treated as a person whose liability to capital gains is affected by the market value of an asset unless their liability has accrued under section 41 or 42 of the Finance Act 1965^(a) and they are at that date or during any relevant year of assessment resident, ordinarily resident or carrying on a trade in the United Kingdom.

Regulation 2 of these regulations substitutes a new regulation 15(b) in the Principal Regulations to remove the requirement that a person must be resident, ordinarily resident or carry on a trade in the United Kingdom in order to be joined as a third party to an appeal or make an application to be joined. The references to sections 41 and 42 of the Finance Act 1965 have been deleted and replaced by references to sections 13 and 87 of the Taxation of Chargeable Gains Act 1992 (c. 12).

Regulation 15(b) includes a reference to section 86 of the Taxation of Chargeable Gains Act 1992 extending the right to be joined as a third party to an appeal or make an application to be joined to settlors of non-resident trusts.

A Tax Information Impact Note has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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(a) 1965 c. 25; sections 41 and 42 were repealed by section 158(1) of, and Schedule 8 to, the Capital Gains Tax Act 1979 (c. 14) and replaced by section 15 of that Act. The 1979 Act was subsequently repealed by sections 289 and 290 and Schedule 12 of the Taxation of Chargeable Gains Act 1992 (c. 12). Section 41 of the 1979 Act was replaced by section 13 of the 1992 Act and section 42 of the 1979 Act was replaced by section 87 of the 1992 Act.

STATUTORY INSTRUMENTS

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£4.00

E6026 03/2013 136026T 19585

ISBN 978-0-11-153652-0



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