

## Interaction with Income Tax and Corporation Tax

### Part 19-02-04

This document should be read in conjunction with Chapter 2 of Part 19 of the Taxes Consolidation Act 1997

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Does not reflect current Revenue position.

## Introduction

**Chapter 2 of Part 19 of the Taxes Consolidation Act 1997** (“TCA 1997”) provides for the adjustments to the consideration for disposal in Capital Gains Tax (“CGT”) computations of sums chargeable to Income Tax (“IT”) or Corporation Tax (“CT”).

### 4.1 Interaction with IT and CT

Before detailed CGT computations can be made, it may be necessary -

- (a) to exclude from the consideration for disposal sums chargeable to IT or CT (see **para 4.2 to 4.6** incl. below); or
- (b) to adjust the consideration for disposal where assets (or values derived from assets) are disposed of or transferred other than for full consideration, i.e. where there has either been no consideration for the disposal of the asset or the consideration received on that disposal was different from (whether it was more or less than) the true market value of the asset at that time (see [Tax and Duty Manual \(TDM\) Part 19-02-06](#)).

### 4.2 Exclusion of consideration charged to IT

Any part of the consideration for disposal of an asset which has either been charged to tax as income, or taken into account in computing income chargeable to tax, should not be taken into account again in computing chargeable gains, except in the case of premiums chargeable under Schedule D for which there are special provisions in Schedule 14 (see [TDM Part 19-02-21](#)).

### 4.3 Receipts and expenditure for IT

For the purposes of capital gains computations, sums taken into account as receipts or as expenditure in computing profits or gains or losses for the purposes of IT include sums which would be so taken into account but for the fact that any profits or gains of a trade, profession or employment are not chargeable to Income Tax, or that losses are not allowable for IT purposes. Income or profits charged or chargeable to tax include income or profits taxed or taxable by deduction at source, even if tax is not in fact deducted on payment.

### 4.4 IT balancing charge

Consideration which has been taken into account in making an IT balancing charge should not on that account be excluded from capital gains (see [TDM Part 19-02-12](#)).

## 4.5 Capitalisation of right to income

Where the whole or part of the consideration for the disposal of an asset is a rent charge, ground annual, or any other right to income (or to payments in the nature of income over a period, or to a series of payments in the nature of income), the capitalised value of such payments should be regarded as consideration or part consideration for the disposal, notwithstanding that the payments are taxed as income, e.g. –

- (a) a rent charge on property received as consideration for the disposal of a different asset; or
- (b) an unsecured annuity granted as consideration for the disposal of a share in a partnership.

This provision does not, however, apply to a rent payable under a lease or other rent for user (see [TDM Part 19-02-21](#)).

## 4.6 Right to income – chargeable asset

A rent charge or other such right to income or payments in the nature of income is itself a chargeable asset. (See, however, [TDM Part 19-07-10](#) as regards annuities and [TDM Part 19-07-10](#) as regards annual payments due under covenant, which are not secured on any property.)

## 4.7 Lump sum payments

Where a lump sum payment is chargeable to tax under Schedule E for the purposes of **sections 123 and 201 TCA 1997** the abatement of €10,160 in computing the charge is regarded as "money taken into account as a receipt in computing income" (**Section 551(2) TCA 1997**) and is therefore not chargeable to CGT as a gain arising from the disposal of a right under a contract of service.

## 4.8 Deduction of expenditure for IT or CGT

Any IT determination is conclusive for the purposes of CGT in relation to **Section 544 TCA 1997**. Thus, a person cannot claim to have an item of expenditure allowed as a revenue expense for IT purposes and then claim in relation to CGT that it is capital expenditure which should increase the cost of the acquisition of the relevant asset.

## 4.9 Deduction of expenditure

No item of expenditure can be deducted for CGT purposes on more than one occasion (i.e. from any sum or from more than one sum).