

Recovery of tax from other members of a group (S.626)

Part 20-01-13

This document should be read in conjunction with section 626
of the Taxes Consolidation Act 1997

Document last reviewed May 2022

Does not reflect current Revenue position.
Most recent version of this manual.

Introduction

This Tax and Duty Manual relates to **section 626 of the Taxes Consolidation Act 1997 ("TCA 1997")**. That section empowers the Revenue Commissioners to recover unpaid tax in respect of a chargeable gain accruing to a member of a group of companies by assessing the principal member of the group or any member which owned the asset while a member of the group. The section also provides the paying company with rights of recovery for such tax as is paid under this section.

13.1 Application

Section 626 TCA 1997 gives Revenue the right to recover unpaid tax on the disposal of an asset, or an interest in an asset, which has passed from one member of a group to another. The recovery can be made either from the principal company or from certain other specified members of the group. In the absence of this provision, an asset which is increasing in value could be passed from one member of the group to another and finally disposed of outside the group by a member which acquired the asset shortly before disposal with the help of secured loans and thus might not have the money to pay the tax on the accumulated gain.

Therefore, if any Corporation Tax ("CT") assessed on a company for an accounting period in which a capital gain accrues is not paid within six months from the date when it becomes payable, any tax on capital gains included in the unpaid tax may, within two years of the date on which the tax became payable, be assessed and charged (in the name of the company to which the chargeable gain accrued) at a rate not exceeding the rate in force when the gain accrued.

The assessment may be made on –

- (a) the company which was at the time when the gain accrued the principal company (see **section 616(1) TCA 1997**) of the group, and
- (b) any other company which, in any part of the period of two years ending when the gain accrued was a member of that group and owned the asset disposed of, or any part of it, at any time while it was such a member, or, where that asset is an interest or right in or over another asset, owned either asset or any part of either asset.

A company within (b) may be assessed whether or not it owned the asset within the period of two years ending with the date on which the gain accrued.

13.2 Recovery of tax

A company assessed under the powers described above is entitled to recover, in whole or in part, the tax that it has paid from certain other companies in the group, as specified in **section 626(2) TCA 1997**.

13.3 Companies chargeable to Capital Gains Tax (not CT) on chargeable gains

See **section 649 TCA 1997** and [Tax and Duty Manual Part 22-02-02](#) for the application with any necessary modifications of **section 626 TCA 1997** to companies chargeable to Capital Gains Tax on chargeable gains on disposals of development land.

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