Unremittable Gains (S.1005)

Part 42-05-04

This document should be read in conjunction with section 1005 of the Taxes Consolidation Act 1997

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

Introduction

Section 1005 of the Taxes Consolidation Act 1997 ("TCA 1997") provides the circumstances in which the Revenue Commissioners may postpone payment of Capital Gains Tax in respect of gains arising abroad where the gains cannot be remitted to the State due to restrictions in force in the country where the gains accrued.

4.1 Unremittable gains

Section 1005 TCA 1997 provides that, where a gain arises on the disposal of an asset situated outside the State and the person making the disposal is able to show that he or she was unable to transfer some or all of these gains to the State due to:

(a) the laws of the country where the gains accrued or

(b) the executive action of its Government,

the Revenue Commissioners may allow postponement of payment of the tax on the gains which cannot be remitted to the State but only for so long as they are satisfied that the restrictions continue to apply. The tax becomes payable when the Commissioners cease to be so satisfied.

4.2 Rights of appeal

A taxpayer who is dissatisfied with a decision of the Revenue Commissioners under **Section 1005(3) TCA 1997** has the normal rights of appeal to the Appeal Commissioners and to the courts. The section does not interfere in the matter of making of assessments and, accordingly, an assessment on the gains should be made in the normal way.