

Part Disposal of Assets (S.534)

Part 19-01-04

This document should be read in conjunction with section 534
of the Taxes Consolidation Act 1997

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Introduction

The term “**disposal**” is not defined. Thus, it must take its ordinary natural meaning, namely, a transfer of ownership of an interest in an asset whether by means of sale, gift or otherwise. Section 534 of the Taxes Consolidation Act 1997 (“TCA 1997”) provides that there is a part disposal whenever the owner of an asset disposes of anything less than the whole of what he or she owns, whether what he or she retains is a physical part of the asset or merely an interest in the whole or part of it.

4.1 Application

Section 534 TCA 1997 provides that, except where the context otherwise requires, any reference to disposal of an asset shall include a reference to the part disposal of an asset. (As regards the interpretation of “asset”, see [Tax and Duty Manual \(TDM\) Part 19-02-14](#)). This applies in particular where, by the disposal, an asset is created out of the whole asset, i.e. where the asset disposed of did not exist separately before the disposal (e.g. a lease granted out of a freehold).

If the part disposal is a disposal of an interest for a limited period so that at the end of the period the person is able to dispose of the whole unencumbered asset, the allowable expenditure on final disposal is nevertheless only the residue after the apportionment of the first and any subsequent part disposals. If at any time between disposals there is any expenditure allowable under [TDM Part 19-02-10](#), that expenditure is added to the residue after the last previous disposal for the purposes of the next disposal.

The result is that the total of the chargeable gains over the whole period from the creation or acquisition to the final disposal of the last part of the asset is (subject to [TDM Part 19-02-14](#)) the excess of the sum of the considerations for the successive part disposals over the total of the allowable expenditure.

Instructions on the computational rules for part disposals are set out in [TDM Part 19-02-14](#).

4.2 Part disposals and no gain / no loss provisions

The provisions for the apportionment of cost on a part disposal are to be operated before regard is had to the various provisions which secure that in certain circumstances no gain or loss is deemed to have arisen on a disposal. Those provisions are as follows:-

- (a) **Section 1028(5) TCA 1997** (husband and wife) and **section 1031M(5) TCA 1997** (civil partners) - see [TDM Part 44-02-01](#) and [TDM Part 44A-02-01](#) respectively.
- (b) Any other provisions with similar effect e.g. **Section 536 TCA 1997** (compensation and insurance money) - see [TDM Part 19-01-07](#).

Example 1

X and Y are a husband and wife.

X has an asset which cost €400,000 and X transfers part of the asset to Y, the market value of that part at the time of transfer being €300,000. The remainder of the asset has a market value of €200,000.

The part disposal rules are applied on the basis that the part of the asset transferred to Y was disposed of at market value. The apportioned cost of the part transferred is then computed as follows: -

$$\text{€}400,000 \quad \times \quad \frac{\text{€}300,000}{\text{€}300,000 + \text{€}200,000} \quad = \quad \text{€}240,000$$

On the eventual disposal of the assets, X's gain will be computed by reference to a "cost" of €160,000 and Y's by reference to a "cost" of €240,000.