

Disposals of marketable shares and securities (S.581)

Part 19-04-03

This document should be read in conjunction with section 581
of the Taxes Consolidation Act 1997

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Introduction

Section 581 of the Taxes Consolidation Act 1997 (“TCA 1997”) is an anti-avoidance measure which is designed to limit the manipulation of capital losses by disposals and reacquisitions of shares or securities within a short time. It applies to shares and securities of the same class which are acquired and disposed of by the same person in the same capacity within 4 weeks. Section 581 TCA 1997 also prevents the manipulation of losses by the device of selling shares or securities with the intention of realising a loss for set-off against gains on other disposals and thereafter reacquiring the shares or securities of the same class within 4 weeks of their disposal.

3.1 Disposals of shares or securities within 4 weeks of acquisition

A special rule applies to shares or securities or any other assets dealt in without identifying the particular assets disposed of or acquired where such assets are acquired and disposed of by the same person in the same capacity within 4 weeks. Under normal rules, the asset purchased first is treated as the first asset sold (the first in first out (FIFO) rule) but under this rule where there is a sale within four weeks after a purchase the item treated as sold is the asset purchased within four weeks of the sale and not the asset acquired earlier.

The normal rules of identification apply to any excess where the quantity disposed of exceeds the quantity recently acquired. In the event of a sale of shares followed by a re-acquisition within four weeks a loss on the sale will be allowed only against gains derived from the disposal of the shares re-acquired within four weeks. Where the reacquisition involves a fraction only of the shares sold the restriction will be confined to a corresponding fraction of the loss.