

Transfer of site to child

Part 19-07-02A

This document should be read together with section 603A TCA 1997

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Introduction

Section 603A of the Taxes Consolidation Act 1997 (“TCA 1997”) provides exemption from Capital Gains Tax (“CGT”) in respect of any gain on a disposal, subject to conditions, on or after 6 December 2000, of a site by a parent or his or her civil partner to a “child”. This relief has been extended to disposals on or after 1 January 2019 to that child’s spouse or civil partner (see 2A.4 below).

2A.1 Application

This section, as extended (see 2A.4 below), provides that CGT will not apply on the transfer of a site by:

- a parent (or both parents simultaneously) to a child of the parent or parents—see section 55 Finance Act 2008 – or to that child’s spouse or civil partner,
- a civil partner (or both civil partners simultaneously) to a child of either civil partner – see section 1(2) and Schedule 1 Finance (No. 3) Act 2011 - or to that child’s spouse or civil partner

where the transfer is to enable the child, or his or her spouse or civil partner, to construct his or her principal private residence on the site.

For the purposes of this relief “child of a parent” has an extended meaning that is defined in Section 603A(1) of the TCA 1997.

2A.2 Value and size of site

The value of the site must not exceed €500,000 (€254,000 for disposals prior to 4 December 2007) to qualify for the relief. For disposals on or after 1 February 2007, the site cannot exceed an area of 0.4047 hectare (1 acre) in addition to the area occupied by the dwelling house itself.

2A.3 Possible clawback of the relief

If the child, or his or her spouse or civil partner, subsequently disposes of the site without having constructed a principal private residence on the site and occupied it as such for at least 3 years, then the capital gain which would have accrued to the parent/s or civil partner, as the case may be, on the initial transfer is treated as accruing to the child and the relief will be clawed back by way of a CGT assessment on the child. However, this gain will not accrue to the child where he or she transfers an interest in the site to his or her spouse or civil partner.

2A.4 Finance Act 2018 Amendment

Section 30 of Finance Act 2018 amended Section 603A TCA 1997 to extend the relief to disposals to a child **and their spouse or civil partner**. This amendment applies to disposals made on or after 1 January 2019.