Relief for farm restructuring (S.604B)

Part 19-07-03B

This document should be read in conjunction with section 604B
of the Taxes Consolidation Act 1997

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

Table of Contents

Introduction 3

3B.1 Application 3

3B.2 Relevant period 3

3B.3 Relief 3

3B.4 Reporting requirements 4

3B.5 Clawback 4

Example 1 5

Example 2 6

Introduction

Section 604B of the Taxes Consolidation Act 1997 ("TCA 1997") provides relief from Capital Gains Tax ("CGT") for farm restructuring. The relief applies to a sale, purchase or exchange of agricultural land in the period from 1 January 2013 to 31 December 2025[1], where Teagasc has certified that a sale and purchase or an exchange of agricultural land was made for farm restructuring purposes. The initial sale or purchase, or the exchange, must occur in the relevant period and the subsequent sale or purchase must occur within 24 months of that sale or purchase.

3B.1 Application

The relief applies to a sale, purchase or exchange in the relevant period (i.e. 1 January 2013 to 31 December 2025) by a "farmer", where Teagasc has certified that a sale and purchase or an exchange of agricultural land was made for farm restructuring purposes in accordance with Guidelines issued by the Department of Agriculture, Food and the Marine. A "farmer" for this purpose means an individual who spends at least 50% of his or her normal working time farming.

3B.2 Relevant period

The initial sale, purchase or exchange must occur in the relevant period and the subsequent sale or purchase must occur within 24 months of that sale or purchase. Accordingly, where a disposal of land took place on 31 December 2021, the relief can be claimed if replacement land is acquired before 31 December 2023, i.e. within 24 months. Similarly, if land was acquired on 31 December 2021 (i.e. before a sale), the relief may be claimed if a sale of land occurs before 31 December 2023 (i.e. within 24 months of land being acquired).

3B.3 Relief

Full relief from CGT will be given where the consideration for the purchase or the exchange of agricultural land is equal to or exceeds the consideration for the sale or the other land that is exchanged. Where the consideration for the purchase or exchange is less than the consideration for the land that is sold or the other land that is exchanged, relief will be given in the same proportion that the consideration for the land that is purchased or exchanged bears to the consideration for the land that is sold or the other land that is exchanged.

[1] Extended to 31 December 2025 by section 3 of the Finance Act 2023.

3B.4 Reporting requirements

Section 29 of the Finance Act 2017 introduced reporting requirements which apply to disposals made on or after 1 July 2016. An individual who is entitled to relief under the section will be obliged to furnish certain information to the Revenue Commissioners on a form provided for that purpose to enable them to calculate the amount of CGT that would have been payable if the relief had not applied. This information is required to comply with EU State Aid publication requirements.

Section 31 of the Finance Act 2018 introduced additional reporting requirements to ensure that the information referred to above is furnished by an individual on a form at the same time as a tax return is submitted by that individual to Revenue. In addition, the amendment ensures that the requirement to provide information to Revenue relates to when the entitlement to relief arose (for example, when a reinvestment of sale proceeds was made) rather than the date of the disposal.

If an individual was entitled to relief between 1 July 2016 and 31 December 2018, the information is required to be included on a form at the same time as the individual's tax return for 2018 is made to Revenue. For the tax year 2019 and subsequent tax years, the information should be included on a form submitted to Revenue at the same time as the individual submits a tax return to Revenue.

3B.5 Clawback

A clawback of the relief is provided for where qualifying land in respect of which relief has been given is disposed of within 5 years of the date of purchase or exchange of that land. The clawback does not apply where the disposal arises under a compulsory purchase order.

Example 1

Amount reinvested greater than sale proceeds

John is a “farmer” as defined. He owns two farms, one of which consists of 125 acres (Parcel A) and one of which consists of 78 acres (Parcel B) which are divided by a new motorway. John sells the parcel of 78 acres (Parcel B), which he purchased in 2004 for €8,500 an acre, for €16,500 an acre.

Within 12 months, he purchases 85 acres of agricultural land adjacent to Parcel A for €15,750 per acre. A Farm Restructuring Certificate was issued by Teagasc on the basis that the transactions were carried out for farm restructuring purposes.

Calculation of CGT on sale before relief

Sale proceeds	78 acres x €16,500 =	€1,287,000	
Less costs		(€45,000)	
			€1,242,000
Less purchase price	78 acres x €8,500 =	€663,000	
Costs		€27,000	(€690,000)
Net gain			€552,000
Less annual exemption			(€1,270)
Chargeable gain before relief			€550,730

Restructuring Relief Allowable

The gain of €552,000 is relieved in full as the cost of the replacement land purchased (85 acres x €15,750 = €1,338,750) is greater than the amount received by John for the land that was sold by him (i.e. €1,287,000).

Example 2

Amount reinvested less than sale proceeds

The facts are the same as in Example 1 as regards the land sold by John. The chargeable gain is, therefore, €552,000.

Within 12 months, John purchases 65 acres adjacent to Parcel A for €15,750 per acre. A Farm Restructuring Certificate was issued by Teagasc on the basis that the transactions were carried out for farm restructuring purposes.

Calculation of Restructuring Relief Allowable

Cost of land purchased	65 acres x €15,750 =	€1,023,750	
Add costs of purchase		€35,000	
Total			€1,058,750
Restructuring Relief Allowable			
Percentage of sale proceeds used to purchase land	€1,058,750[2] / €1,242,000[3]	=	85.25%
Chargeable gain			€552,000
Amount of relief	€552,000 @ 85.25%	=	(€470,580)
Chargeable gain after relief			€81,420
Less annual exemption			(€1,270)
Amount chargeable			€80,150
CGT payable	€80,150 @ 33%	=	€26,450

[2] In practice, costs relating to the purchase of the land are treated as consideration paid for the land.
[3] The consideration for the land that is sold is the net amount after deducting costs.