

Chattel Exemption and Wasting Chattels (S.602/S.603)

Part 19-07-02

This document should be read in conjunction with sections 602 and 603 of the Taxes Consolidation Act 1997

Document last reviewed July 2022



Table of Contents

Introduction	3
2.1 Wasting chattel and capital allowances	3
2.2 Disposal of a chattel	3
Example 1	3
2.3 Disposal of a chattel and marginal relief	3
Example 2	4
2.4 Allowable losses	4
Example 3	4
2.5 Exempt chattels and annual exempt amount	4
2.6 Disposals in separate parts.....	4
Example 4	5
Example 5	6
2.7 Meaning of a "set"	6
2.8 Stamps and coins.....	6
2.9 Similar chattels	7
2.10 Structures and buildings.....	7
2.11 Application of the €2,540 limit.....	7
2.12 Commodities and currency	8
2.13 Commodity futures contracts.....	8
2.14 Commodity futures	8

Note: This manual is currently subject to review and may not reflect up-to-date position. Most recent version.

Introduction

Section 602 Taxes Consolidation Act 1997 (“TCA 1997”) provides exemption from Capital Gains Tax (“CGT”) where the gain accrues from the disposal by an individual of tangible movable property (chattels) and the consideration for the disposal is €2,540 or less. Where the consideration exceeds €2,540, marginal relief applies so that the amount of tax chargeable does not exceed one-half the difference between the consideration and €2,540.

Section 603 TCA 1997 provides that an asset that is tangible movable property (i.e. chattels) which is a wasting asset is exempt from CGT, that is, no chargeable gain arises on the disposal of such property. The exemption does not apply to wasting chattels used for business purposes to the extent that the expenditure on the asset qualified for capital allowances, nor does it apply to commodities of any description.

2.1 Wasting chattel and capital allowances

A gain accruing on the disposal of tangible movable property (i.e., a chattel) which is a wasting asset ([Tax and Duty Manual \(TDM\) Part 19-02-16](#)) is not a chargeable gain. There is, however, no exemption for a wasting chattel disposed of for more than €2,540 where capital allowances were or could have been claimed ([TDM Part 19-02-17](#)).

The instructions in **para 2.2 to 2.6** apply to chattels which are not exempt as wasting assets.

2.2 Disposal of a chattel

Any gain realised on the disposal of a chattel is not chargeable if the consideration for the disposal without any deduction for expenses (i.e., the sale price or, in the case of a gift or any other situation where market value applies, the market value at the date of the disposal) does not exceed €2,540.

Example 1

In May 1986, a person buys a piece of antique silver for €1,000. He or she sells it in January 2021 for €1,900. There is no chargeable gain because the sale price is less than €2,540.

2.3 Disposal of a chattel and marginal relief

Where the consideration for the disposal of a chattel exceeds €2,540, the amount of the tax chargeable is not to exceed one-half of the difference between the gross consideration and €2,540.

Example 2

If the article in Example 1 is sold for €2,800, the chargeable gain subject to expenses is: -

Consideration					€2,800
Less cost	€1,000	x	1.637	=	€1,637
					<u>€1,163</u>

However, the tax payable is restricted. The tax payable is not to exceed €130 (i.e. half of the difference between €2,800 and €2,540).

2.4 Allowable losses

Where a chargeable chattel is disposed of for less than €2,540, any loss on the disposal should be computed as if the consideration for the disposal had been €2,540.

Example 3

An article is bought for €3,100 and sold for €1,850. The allowable loss is computed as if the sale price were €2,540 and is therefore limited to €560 (plus expenses of sale).

2.5 Exempt chattels and annual exempt amount

In calculating the total of chargeable gains for the annual exemption ([TDM Part 19-07-01](#)), all disposals of exempt chattels are to be disregarded.

2.6 Disposals in separate parts

Section 602(5) TCA 1997 contains provisions necessary to prevent the €2,540 limit being used to exempt gains on the disposal of a "set of articles" (which is essentially one chattel of greater value than €2,540) by splitting it up into its component parts. Where parts of a "set of articles" all owned at one time by the same person are disposed of by that person to –

- (a) the same person, or
- (b) persons who are acting in concert or who are connected persons within the terms of **section 10 TCA 1997** (see [TDM Part 19-02-09](#)).

the separate parts are to be treated for the purposes of the exemption limit of €2,540 as if they constituted one asset.

Example 4

In 2013, a taxpayer buys a silver tea set at a jumble sale for €200. They discover that it is worth considerably more than they paid for it. In 2020, the taxpayer sells part of the set to a dealer for €2,000; at that time, the market value of the remainder of the set is €1,800. In 2021, the taxpayer sells the remainder of the set to the same dealer for €1,800. The total chargeable gain is as follows: -

2020:				
Proceeds				€2,000
Less cost	€200	x	€2,000	=
			<u>€2,000 + €1,800</u>	<u>€105</u>
Gain				€1,895
2021:				
Proceeds				€1,800
Less cost	€200	x	€1,800	=
			<u>€2,000 + €1,800</u>	<u>€95</u>
Gain				€1,705

The overriding limit on the tax chargeable is $\frac{1}{2}$ (€3,800 – €2,540) = €630.

If the tax chargeable under the two assessments taken together exceeds the overriding limit, the appropriate reduction in tax should be made by reference to the proportion of the total sale proceeds applicable to each year,

2020:	€1,895 @ 33%			€625
2021:	€1,705 @ 33%			€563
	Total			<u>€1,188</u>
Less	Overriding limit (as above)			<u>€630</u>
Total	Reduction in tax			€558
2020:	<u>€2,000</u>	x	€558	=
	<u>€2,000 + €1,800</u>			<u>€294</u>
2021:	Balance			=
				<u>€264</u>

The tax chargeable will therefore be: -

2020:	€625 less €294	=	€331
2021:	€563 less €264	=	€299
			<u>€630</u>

Example 5

In 2016, A buys a silver tea set for €3,000. In 2020, A sells part of the set to a dealer for €1,000. In 2021, A sells the remainder of the set to the same dealer for €1,100. The total loss is €900 but the allowable loss is computed as if the sale price was €2,540 and is therefore limited to €440 (plus any allowable expenses). This loss is allocated to the separate years of assessment by reference to the total sale proceeds applicable to each year –

$$\begin{array}{r} \text{2020 Allowable loss:} \\ \hline \text{€1,000} \\ \hline \text{€1,000 + €1,100} \end{array} \quad \times \quad \text{€440} \quad = \quad \text{€210}$$

$$\begin{array}{r} \text{2021 Allowable loss:} \\ \hline \text{€1,100} \\ \hline \text{€1,000 + €1,100} \end{array} \quad \times \quad \text{€440} \quad = \quad \text{€230}$$

2.7 Meaning of a "set"

The Concise Oxford Dictionary defines the word "set" as a number of things that belong together as essentially similar or complementary to each other. This definition is not, however, satisfactory in the context of **section 602(5) TCA 1997**. A thousand seats in a hall are essentially similar to each other; various items of furniture in a room may be complementary; but in neither case would the assets form a "set" for CGT purposes.

A practical approach is to say that, broadly, a group of articles form a "set" if they are

- (a) essentially similar and complementary, and
- (b) their value as a whole is greater than the sum of the values of the parts.

2.8 Stamps and coins

An entire collection of stamps does not normally constitute a "set" even if they are all of one country or all of one "theme" (e.g. all stamps depicting birds). All the values of a commemorative issue or of a definitive issue of one country will, however, normally constitute a "set".

Similarly a collection of coins which are not currency ([TDM Part 19-01-02](#)) is not likely to constitute a "set". All the values minted in one year will, however, usually form a "set".

2.9 Similar chattels

The fact that –

- (a) a number of chattels are included in one "lot", or
- (b) a number of similar articles are sold on behalf of one person and bought by one other person,

should not be regarded as necessarily implying that the articles form a "set".

2.10 Structures and buildings

Structures on land may be chattels. A general rule is that a structure annexed to land only by its own weight is a chattel.

Normally, a building which is not a chattel but a part of the land would pass under a conveyance of the land, whereas a chattel would pass under a contract.

2.11 Application of the €2,540 limit

Section 602(6) TCA 1997 is intended to prevent the avoidance of tax by the disposal for less than €2,540 of a right or interest in a chattel worth more than €2,540 (followed by the disposal at a later date of the chattel itself).

In such a case, the chargeable gain is a due proportion of the gain which would have been charged if the whole asset had been disposed of for the sum of the consideration received for the right or interest and the value of the remaining part of the asset.

In determining whether the €2,540 limit applies –

- (a) the market value of what remains undisposed of should be aggregated with the consideration received for the actual disposal, and the maximum tax chargeable in respect of the gain (or the maximum relief allowable in respect of the loss) calculated by reference to that aggregate figure;
- (b) if the aggregate exceeds €2,540, the maximum tax chargeable should then be reduced to the proportion which the actual consideration for disposal bears to the aggregate;
- (c) if the aggregate is less than €2,540, any relief which would be allowable in respect of a loss calculated on the basis described at (a) above should similarly be restricted to the proportion which the actual consideration upon disposal bears to the aggregate.

2.12 Commodities and currency

Section 602 TCA 1997 does not apply to gains accruing on the disposal of -

- (a) commodity "futures" or
- (b) currency (see [TDM Part 19-01-02](#)).

2.13 Commodity futures contracts

A "commodity futures" contract is a contract made subject to the rules of a particular terminal market to buy or to sell, as the case may be, a standard quantity of a commodity of standard grade or quality at a specified price for collection or delivery at a specified future time. It is, therefore, a contract for the acquisition or disposal of tangible movable property.

2.14 Commodity futures

Section 602 TCA 1997 provides that the general exemption of tangible movable property where the sale price or market value is €2,540 or less shall not apply to commodity futures, and consequently gains on transactions in futures, are chargeable gains, irrespective of the amount of the consideration on disposal.