

Disposals within family of business or farm (S.599)

Part 19-06-03b

This document should be read in conjunction with section 599
of the Taxes Consolidation Act 1997

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Table of Contents

| | |
|--|----|
| Introduction | 3 |
| 3b.1 Meaning of “child” for this relief..... | 3 |
| 3b.2 Amount of relief | 3 |
| Disposals made before 1 January 2025 | 3 |
| Disposals made on or after 1 January 2025 | 4 |
| Aggregate consideration | 5 |
| 3b.3 Clawback of relief | 8 |
| 3b.4 Deferral of CGT liability | 9 |
| 3b.5 Summary Table..... | 13 |
| 3b.6 An exchange or part-exchange of land..... | 14 |
| 3b.7 Certain disposals of shares or securities | 14 |
| 3b.8 Requirement to make a claim | 14 |
| 3b.9 Retirement relief and anti-avoidance | 15 |

Introduction

Section 599 of the Taxes Consolidation Act 1997 (“TCA 1997”) provides for relief from Capital Gains Tax (“CGT”) on the disposal by an individual, who has attained 55 years of age, of certain business or agricultural assets where such disposal is to a “child”, as defined in this section, of the individual or of that individual’s civil partner. The relief broadly follows the same rules that apply to relief under section 598 TCA 1997, with the exception of the monetary limits applicable. See [Tax and Duty Manual \(TDM\) Part 19-06-03](#) for further details.

3b.1 Meaning of “child” for this relief

The meaning of “child” for the purposes of this relief is extended to include a child of a deceased child and a nephew or niece who has worked substantially on a full-time basis in the business for the 5-year period ending on the date of the disposal. Whether a niece or nephew is considered to have worked substantially on a full-time basis in the business is a question of fact to be established based on the facts and circumstances of each case.¹ It also includes a foster child who was under the care of, and maintained at the expense of, the individual making the disposal for a period of 5 years (or periods which together amounted to 5 years) up to the time such foster child reached 18 years of age, but only where the claim for relief is not based on the uncorroborated testimony of one witness.

3b.2 Amount of relief

The amount of CGT relief which may be granted to an individual on the transfer of qualifying assets to their child will depend on a number of factors, including the date of the transfer, the individual’s age at the date of the transfer and the aggregated value of the assets transferred.

Disposals made before 1 January 2025

For an individual who has attained 55 years of age and satisfies the conditions applicable to the relief there is no monetary limit on the market value of the qualifying assets that can qualify for relief in relation to transfers made on or before 31 December 2013.

However, for disposals made on or after 1 January 2014 but on or before 31 December 2024, where the individual making the disposal is 66 years or over and the market value of the qualifying assets is over €3 million, section 599(1)(b)(iii) TCA

¹ It should be noted that, the provisions of Schedule 2, Part 1, paragraph 7 of the Capital Acquisitions Tax Consolidation Act 2003, which provides, in certain circumstances, for gift and inheritances received by nieces and nephews to be treated as those received by a child of the donor, do not apply to CGT as they apply to Capital Acquisitions Tax.

1997 provides that the relief is limited to the gain on an amount of proceeds of €3 million. In other words, the portion of the consideration in excess of €3 million is chargeable to CGT.

Example 1

An individual acquired a farm for €1.5 million in 2010 and transferred it to a child on 1 June 2021; the value of the farm at that date was €5 million. It is assumed that the individual, aged 67 years at time of the transfer, fulfils all the other conditions applicable to the relief.

The normal computation of liability would be:

| | |
|--------------------------|------------|
| Consideration | €5,000,000 |
| Less Cost | €1,500,000 |
| Chargeable gain | €3,500,000 |
| Capital Gains Tax @33% = | €1,155,000 |

However, relief under section 599(1)(b)(iii) TCA 1997 reduces the CGT payable by an amount calculated as if the consideration was €3 million:

| | |
|---|------------|
| Consideration | €3,000,000 |
| Less Cost | €1,500,000 |
| Chargeable gain | €1,500,000 |
| Capital Gains Tax @ 33% = (Relieved amount) | €495,000 |

The net CGT payable is therefore €660,000 (€1,155,000 - €495,000) – which is the same as calculating CGT on the excess of the consideration over €3 million, i.e., €5 million - €3 million @ 33% = €660,000.

Disposals made on or after 1 January 2025

Section 50 of Finance (No. 2) Act 2023 provides that, for disposals made on or after 1 January 2025, a limit of €10 million applies to the market value of the qualifying assets in respect of which relief is available, where such assets are transferred by individuals aged 55 to 69 years to a child. Where the market value of the qualifying assets is greater than €10 million, relief shall apply on the gain accruing as if the consideration had been €10 million. A €3 million limit applies to disposals of qualifying assets by persons aged 70 years and over from 1 January 2025 onwards.

Section 55 of Finance Act 2024 provides that the CGT liability which arises to an individual on the transfer of qualifying assets to a child, on or after 1 January 2025, the value of which exceeds the €10 million limit, may be deferred by the individual making the transfer (see **para.3b.4** for further details).

Example 2

An individual purchased 100% of the shares in a company for €8 million in 2015 and transferred same to a child on 1 June 2025; at the date of the transfer, the shares were valued at €15 million. It is assumed that the individual, aged 67 years at the time of the disposal, fulfils all the other conditions applicable to the relief.

The normal computation of liability would be:

| | |
|---------------------------|-------------|
| Consideration | €15,000,000 |
| Less Cost | €8,000,000 |
| Chargeable gain | €7,000,000 |
| Capital Gains Tax @ 33% = | €2,310,000 |

However, relief under section 599(1)(b)(v) TCA 1997 reduces the CGT payable by an amount calculated as if the consideration was €10 million:

| | |
|--|-------------|
| Consideration | €10,000,000 |
| Less Cost | €8,000,000 |
| Chargeable gain | €2,000,000 |
| Capital Gains Tax @33% = (Relieved amount) | €660,000 |

The net CGT payable is therefore €1,650,000 (€2,310,000 - €660,000) – which is the same as calculating CGT on the excess of the consideration over €10 million, i.e., €15 million - €10 million @ 33% = €1,650,000.

As the individual has made a “relevant disposal” on or after 1 January 2025, they have the option to defer the CGT liability which arises in respect of the assets, the value of which exceeds €10 million (section 599(4A)(c) TCA 1997). Where the individual makes a claim to defer the CGT liability of €1,650,000, the CGT payable in respect of the 1 June 2025 transfer will be nil. Refer to [3b.4](#) for further information on the option to claim a deferral of CGT in these circumstances.

Should the individual wish to make claims for relief and/or to defer the CGT liability in accordance with the provisions of section 599 TCA 1997, the individual is required to make such claims in the tax return for the year of assessment in which the transfer takes place. In the context of this example, the claim for CGT relief, in respect of assets comprised in the transfer to the child which are valued at €10 million, and the claim to defer the CGT liability, in respect of the assets, the value of which exceed €10 million (i.e. those assets worth €5 million), must be made in the tax return for the 2025 year of assessment.

Aggregate consideration

Full CGT relief may be claimed by an individual on the transfer of qualifying assets to their child, where the value of those assets does not exceed the relevant limit, as provided for under section 599 TCA 1997. Where the aggregated total value of all qualifying assets transferred to a child exceeds the relevant limit, CGT is due on the gains accruing on the disposal of those assets, the value of which exceed the relevant limit.

The following provisions apply for the purpose of calculating the aggregate consideration for disposals of qualifying assets to a child:

- The value of the qualifying assets transferred by individuals aged 66 or over to a child in the period 1 January 2014 to 31 December 2024, inclusive, will be aggregated for the purpose of the €3 million limit on the relief available to such individuals in respect of such transfers (section 599(2)(a) TCA 1997).
- The value of the qualifying assets transferred by individuals aged 66 or over to a child in the period 1 January 2014 to 31 December 2024, will be aggregated with the value of the qualifying assets transferred by such individuals to a child in the period on or after 1 January 2025, so as to determine whether the €3 million / €10 million limit has been reached (section 599(2)(b) TCA 1997).
- In circumstances where the value of the qualifying assets transferred by an individual to a child in the period 1 January 2014 to 31 December 2024 exceed €3 million, thus triggering a CGT liability on the assets, the value of which exceed €3 million, and the individual transfers further qualifying assets to a child on or after 1 January 2025, then, in considering whether the €10 million limit has been breached, the value of the assets transferred by that individual to a child in the period 1 January 2014 to 31 December 2024, inclusive, is deemed to be €3 million. In this way, the value of disposals of qualifying assets in respect of which CGT had been paid will not be taken into account in applying the €10 million limit. (section 599(2)(b) TCA 1997).
- All disposals by individuals aged 55 years or over of qualifying assets to a child on or after 1 January 2025 will be aggregated for the purpose of determining the €3 million and €10 million limits that apply to disposals after that date. (section 599(2)(c) TCA 1997).

Example 3

An individual aged 63 on 1 January 2024 transfers qualifying assets worth €10 million to their child on that date. It is assumed that the individual has made no prior transfers and fulfils all conditions applicable to the relief.

No CGT liability arises on the transfer of qualifying assets worth €10 million, as full CGT relief is available on transfers of qualifying assets made by individuals aged 55 to 65, inclusive, on or before 31 December 2024 (section 599(1)(b)(i) TCA 1997).

If the same individual, now aged 64, makes a further transfer of qualifying assets worth €5 million to a child on 1 January 2025, full relief under section 599 TCA 1997

may be claimed on the €5 million worth of such assets (section 599(1)(b)(iv) TCA 1997).

The individual's previous transfer of qualifying assets (i.e. the pre 1 January 2025 transfer) to their child was not subject to the €3 million limit which applied at that time to such transfers when made by individuals aged 66 and over; as such the value of those assets are not aggregated with the 2025 transfer for the purpose of determining if the €10 million limit, which applies to disposals made on or after 1 January 2025, has been breached.

Example 4

An individual aged 69 on 1 January 2025 transfers qualifying assets worth €9 million to their child on that date. It is assumed that the individual has made no prior transfers and fulfils all conditions applicable to the relief.

Full CGT relief is available in respect of this transfer as the value of the qualifying assets transferred does not exceed the €10 million limit which applies in respect of disposals of qualifying assets made on or after 1 January 2025 (section 599(1)(b)(iv) TCA 1997).

If on 1 January 2026 the same individual, now aged 70, makes a further transfer of qualifying assets worth €4 million to a child, relief under section 599 TCA 1997 is not available in respect of such assets, as all disposals made by individuals aged 55 or more on or after 1 January 2025 are aggregated for the purpose of the limits which apply to the relief from this date onwards (section 599(2)(c) TCA 1997).

Furthermore, section 599 TCA 1997 does not provide for an opportunity for such an individual to defer the CGT liability arising in respect of the assets comprised in the €4 million transfer as it is not a "relevant disposal" for the purposes of section 599(4A) TCA 1997 (see para.3b.4 for further details).

Example 5

An individual aged 68 on 1 January 2024 transfers qualifying assets worth €4 million to their child on that date. It is assumed that the individual has made no prior transfers and fulfils all conditions applicable to the relief.

CGT relief is available on the first €3 million worth of assets and the excess €1 million in assets is chargeable to CGT in the normal manner. (section 599(1)(b)(iii) TCA 1997).

If on 1 January 2025 the same individual, now aged 69, makes a further transfer of qualifying assets worth €7 million to a child, relief under section 599 TCA 1997 may be claimed in respect of such assets (section 599(1)(b)(iv) TCA 1997).

In this case, the individual, having reached the age of 66, transferred qualifying assets to a child in the period 1 January 2014 to 31 December 2024, and made a further transfer of qualifying assets to a child in the period 1 January 2025 onwards, and as such, the consideration on the disposal of qualifying assets in both periods must be aggregated for the purpose of the €10 million limit for relief available from 1 January 2025 onwards. (section 599(2)(b) TCA 1997).

The value of the transfer made by the individual in the period 1 January 2014 to 31 December 2024, which is subject to the €3 million cap, exceeded €3 million. The individual transferred further qualifying assets to a child on or after 1 January 2025, and so, in considering whether the €10 million limit has been breached, the value of the disposal in the period 1 January 2014 – 31 December 2024 is deemed to be €3 million (section 599(2)(b) TCA 1997).

As the total aggregated disposals amount to €10 million, the individual has not breached the €10 million limit and may claim full relief on the €7 million disposal in 2025.

3b.3 Clawback of relief

There is a provision for a clawback of the relief where the assets transferred to the child are disposed of by that child within 6 years of the date of transfer.

The clawback applies in respect of the relief claimed by an individual in respect of:

- (i) transfers of qualifying assets to which limits on relief do not apply (section 599 (1)(b)(i) and (ii)), and
- (ii) transfers of qualifying assets, which are subject to such limits, but the value of assets transferred do not exceed such limits (section 599 (1)(b)(ia), (iii), (iv), (v), (vi) and (vii)).

The clawback operates to withdraw the relief not from the original disponer who benefitted from the relief, but by way of an assessment on the child to whom the assets were transferred. In effect, the CGT which would have been charged on the original disponer (if the relief had not applied) is assessed and charged on the child, in addition to any tax chargeable on the gain accruing on the child's disposal of the assets.

In the case of such a disposal that gives rise to a clawback, the child making the disposal is required, in accordance with self-assessment principles, to make a full and true return – which includes details of the disposal and the necessary self-assessment to clawback relief previously claimed – for the relevant year of assessment (i.e., the year of assessment in which a disposal is made).

Where the disposal is for farm restructuring purposes, relief under section 604B TCA 1997 can be availed of by the child, provided that child meets the conditions of the relief. The effect of relief under section 604B TCA 1997 is that there will not be a

clawback of the relief given by virtue of section 599 TCA 1997, or a CGT charge in respect of the gain (if any) made by the child, to the extent that the proceeds of the disposal are reinvested in other qualifying land.

There must be a disposal by the child for the clawback to apply. If the child dies within 6 years, the child's death would not give rise to a clawback as death is not an occasion of disposal for CGT purposes (section 573(2)(b) TCA 1997). The provision is aimed at preventing abuse of the relief by dressing up a disposal to an outsider as a disposal firstly to a child, bringing the base cost up to its market value, and then secondly by the child to an outsider.

Example 6

An individual, Mr. A, aged 64 on 1 January 2024, transfers qualifying assets worth €8 million to his niece, Ms. B, who is aged 50 on that date. As Ms B has worked substantially on a full-time basis in Mr A's business since 1 January 2015, Ms B falls within the definition of a child for the purposes of section 599 TCA 1997. It is assumed that Mr. A has made no prior transfers and fulfils all conditions applicable to the relief.

No CGT liability arises on the transfer of qualifying assets worth €8 million by Mr. A, as full CGT relief is available on transfers of qualifying assets made by individuals aged 55 to 65, inclusive, on or before 31 December 2024. (section 599(1)(b)(i) TCA 1997).

In January 2029, on reaching 55, Ms. B transfers the qualifying assets, now worth €10 million, to her child, Mr. C. As Ms. B is disposing of the qualifying assets transferred to her by Mr. A within 6 years of Mr. A's transfer, the CGT liability relieved in full on 1 January 2024 is assessed and charged on Ms. B (section 599(4) TCA 1997).

If Ms. B had instead transferred the qualifying assets to Mr. C on 2 January 2030, the CGT liability relieved in full on 1 January 2024 would not be clawed back as 6 years would have expired since Mr. A's transfer to Ms. B.

3b.4 Deferral of CGT liability

Section 55 of Finance Act 2024 inserted subsection (4A) of section 599 TCA 1997 and provides for an option for an individual to defer the CGT liability arising on a "relevant disposal", made on or after 1 January 2025.

A "relevant disposal" means a disposal of qualifying assets, as referred to in section 599(1)(b)(v), being a disposal in respect of which CGT is chargeable, as the value of the assets exceed the €10 million limit on relief granted under section 599. By virtue of the operation of section 599(1)(b)(v), CGT arising in respect of the disposal of qualifying assets on or after 1 January 2025, the (aggregated) value of which does

not exceed €10 million is relieved in full; CGT arises in respect of the disposal of qualifying assets, the value of which exceed €10 million.

The CGT liability which arises to an individual, aged 55 or over, on a relevant disposal to a child may be deferred by the individual making the transfer. The individual may make a claim to defer the payment of CGT chargeable in respect of the relevant disposal in the tax return for the year in which the transfer takes place.

Section 599(4A) provides for two possible outcomes where an individual makes a claim to defer the payment of CGT arising on a relevant disposal:

- i. Where the child to whom the qualifying assets comprised in the relevant disposal were transferred disposes of such assets within 12 years of the date of the relevant disposal, the deferred CGT is crystallised and becomes assessed and charged on the child, along with any CGT arising to the child on their disposal of the assets.
- ii. Where the child to whom the qualifying assets comprised in the relevant disposal were transferred does not dispose of the assets within 12 years of the date of the relevant disposal, the deferred CGT is no longer due and payable.

Thus, the deferred CGT will only become due and payable should the child to whom the assets, in respect of which the CGT liability is deferred, were transferred dispose of the assets within 12 years of the transfer. It is important to note that the deferred CGT liability which becomes due and payable on the child's disposal of the assets is assessed and charged on the child.

If the child dies within the 12-year retention period, the child's death does not give rise to the crystallisation of CGT, as death is not an occasion of charge for CGT purposes (section 573(2)(b) TCA 1997).

Example 7

An individual, aged 56 on 1 January 2025, transfers qualifying assets worth €7 million to their child on that date. It is assumed that the individual has made no prior transfers and fulfils all conditions applicable to the relief.

CGT relief is available on the €7 million as the value of the qualifying assets transferred at that date does not exceed the €10 million limit (section 599(1)(b)(iv) TCA 1997).

If the same individual (now aged 57) further transfers qualifying assets worth €5 million to a child on 1 January 2026, relief may be claimed on €3 million worth of such assets; the balance of €2 million, being the amount in excess of the €10 million limit, will be subject to CGT in the normal manner (section 599 (1)(b)(v) TCA 1997)

However, as the individual has made a relevant disposal on or after 1 January 2025, the individual has the option to defer the CGT liability which arises in respect of the assets valued in excess of €10 million in that relevant disposal (section 599(4A)(c) TCA 1997).

The deferred CGT will only become due and payable should the child to whom the assets, in respect of which a CGT liability is deferred, disposes of the assets within 12 years of the date the transfer, in respect of which a deferral was claimed (section 599(4A)(d) TCA 1997).

Should the individual wish to make claims for relief and/or the deferral of CGT under section 599 TCA 1997, the individual is required to make such claims in the tax returns for the years in which the transfers take place. The claim for CGT relief, in respect of assets worth €7 million and €3 million must be made in the tax returns for 2025 and 2026, respectively. The claim to defer the CGT liability, in respect of the assets worth €2 million, must be made in the tax return for the 2026 year of assessment.

Example 8

An individual aged 56 on 1 January 2025, transfers qualifying assets worth €12 million to their child on that date. It is assumed that the individual has made no prior transfers and fulfils all conditions applicable to the relief.

The CGT arising on the first €10 million value of the transfer may be relieved in full (section 599(1)(b)(v) TCA 1997), and the individual may defer the CGT liability arising on the balancing €2 million (section 599(4A)(c) TCA 1997).

Should the individual wish to make claims for relief and/or defer the CGT liability under section 599 TCA 1997, the individual is required to make the claims in the tax return for the year in which the transfer takes place. The claim for CGT relief, in respect of assets worth €10 million and the claim to defer the CGT liability, in respect of the assets worth €2 million, must be made in the tax return for the 2025 year of assessment.

In January 2030, the child disposes of the assets, now worth €15 million. The CGT relief claimed on 1 January 2025, in respect of assets worth €10 million, will be clawed back, as the 6-year period specified in section 599(4) TCA 1997 has not expired at this point. The clawback of CGT is assessed and charged and on the child in 2030.

In addition, the deferred CGT, claimed by the individual in 2025 on the assets worth €2 million, will crystallise as the 12-year retention period relevant to such assets has not expired. The deferred CGT will be assessed and charged on the child in 2030 (section 599(4A)(d)(i) TCA 1997).

The child is required to include details of the disposal and the necessary self-assessment to the clawback of relief and deferred CGT liability, as previously claimed by the individual, in their tax return for the 2030 year of assessment.

Example 9

An individual, Mr. A, aged 68 on 1 January 2025, transfers qualifying assets worth €12 million to his daughter Ms. B, then aged 45. The CGT arising on the first €10 million value of the transfer may be relieved in full (section 599(1)(b)(v) TCA 1997),

and Mr. A may choose to defer the CGT arising on the balance of €2 million (section 599(4A)(c) TCA 1997).

On reaching 55 in 2035, Ms. B transfers the qualifying assets (still valued at €12 million) to her son, Mr. C. At that point, 6 years have expired since she acquired the assets from her father, Mr. A, in 2025 and so Ms. B transfers the assets representing the first €10 million worth of assets acquired from her father in 2025 without triggering the clawback of CGT under section 599(4); on her transfer of the assets representing the €2 million balance of assets acquired from her father in 2025, the deferral claimed by Mr. A in 2025 will crystallise, as the 12 year retention period relevant to such assets has not yet expired, and the deferred CGT will be assessed and charged on Ms. B in 2035 (section 599(4A)(d)(i) TCA 1997).

Ms. A is required to include details of the disposal in her tax return for the 2035 year of assessment. In addition, she is required to include the necessary self-assessment to the deferred CGT liability in respect of the assets valued at €2 million which has now crystallised.

3b.5 Summary Table

| Period of Disposal | Age | Value of Qualifying Assets for Full Relief | Tax Treatment | S599 TCA | 6-year Clawback Applies | Deferral Option Applies |
|--------------------------------------|-------|--|--|------------------|---|---|
| On or before 31.12.2013 ² | 66+ | No limit | full CGT relief | 1(b)(ii) | yes | no |
| On or before 31.12.2024 | 55-65 | No limit | full CGT relief | 1(b)(i) | yes | no |
| 01.01.2014 to 31.12.2024 | 66+ | €3 million | full CGT relief up to €3 million value, excess chargeable | 1(b)(ia) & (iii) | yes | no |
| On or after 01.01.2025 | 55-69 | €10 million | full CGT relief up to €10 million value, excess chargeable | 1(b)(iv) & (v) | Yes, re assets the value of which does not exceed €10 million | Yes, re assets the value of which exceeds €10 million |
| On or after 01.01.2025 | 70+ | €3 million | full CGT relief up to €3 million value, excess chargeable | 1(b)(vi) & (vii) | yes | no |

² Prior to Finance Act 2012, for an individual who had attained the age of 55 years and satisfied the conditions applicable to the relief, there was no monetary limit on the market value of the qualifying assets that qualified for the relief.

3b.6 An exchange or part-exchange of land

Where an individual is disposing of land used for farming to their child (see para. 3b.1 above) and the consideration for the disposal consists in whole or in part of other land (i.e., an exchange or part-exchange of land) the individual acquiring this other land will be treated as having acquired the land at the time and for the consideration that the child originally acquired it and to have farmed it for the period that the child farmed it.

3b.7 Certain disposals of shares or securities

In relation to a disposal of shares or securities of a family company by an individual to a child, as defined in section 599 TCA 1997, the consideration in respect of such a disposal is to be aggregated with any disposal of shares or securities by that individual to a company controlled by that same child, for the purpose of calculating the relevant threshold limit for relief under section 598 TCA 1997.

Section 50 of Finance (No.2) Act 2023 amended section 599(7) TCA 1997 to reflect the fact that, in respect of disposals made on or after 1 January 2025, the current €3 million limit on relief under the section applies to individuals aged 70 years and over, and a new €10 million limit on relief applies to such disposals when made by individuals aged 55 years and over. The subsection provides that the consideration on a disposal of shares or securities of a family company by an individual to a child, in circumstances where the €3 million limit on relief in the period 1 January 2014 to 31 December 2024, inclusive, and/or the €10 million limit on relief on or after 1 January 2025, may apply, is to be aggregated with a disposal of shares or securities by the individual to a company controlled by that same child, for the purpose of calculating the relevant threshold limits for relief under section 598 TCA 1997.

3b.8 Requirement to make a claim

Section 50 of Finance (No.2) Act 2023 requires that a claim for relief under section 599 TCA 1997 must be made by an individual in the tax return which they are obliged to deliver for the relevant year of assessment (i.e. the year of assessment in which a disposal in respect of which relief is claimed under the section is made) in accordance with the provisions of Chapter 3 of Part 41A of the Taxes Consolidation Act 1997.

Section 55 of Finance Act 2024 requires that a claim to defer payment of CGT chargeable in respect of a relevant disposal must be made by an individual in the tax return which they are obliged to deliver for the year of assessment in which the relevant disposal is made, in accordance with the provisions of Chapter 3 of Part 41A of the Taxes Consolidation Act 1997.

A claim for relief and/or deferral of CGT is not mandatory. An individual has the option to make a claim for relief on a disposal and/or defer the payment of CGT due on a relevant disposal.

3b.9 Retirement relief and anti-avoidance

Section 55 of Finance Act 2024 inserted a general anti-avoidance provision into section 599 TCA 1997 such that a claim for relief or deferral of CGT will only apply where the disposal to which the relief or deferral applies is made for genuine commercial reasons and does not form part of any arrangement or scheme the main purpose, or one of the main purposes, of which is the avoidance of tax.