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Guide to

Capital Gains Tax

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Introduction

1. This Guide reflects the legislation in place as at 1 September 2011. Any requests for further information, including information about the taxation of disposals in earlier years, can be made to your Revenue office or you can view information on Revenue's website www.revenue.ie.

A list of the main Revenue offices, with addresses, telephone numbers and e-mail contact addresses and sources of additional information is set out in **Appendix 4** of this Guide.

2. Capital Gains arising on the disposal of a wide range of assets are chargeable to Capital Gains Tax. The standard rate of tax on Capital Gains made on or after 7 December 2011 is 30%. For certain windfall gains the windfall gains tax rate is 80%. For Capital Gains made between 8 April 2009 and 6 December 2011 inclusive, the standard rate of tax on Capital Gains is 25%. For Capital Gains made between 15 October 2008 and 7 April 2009 inclusive the standard rate of tax on Capital Gains is 22%. For Capital Gains made on or before 14 October 2008 the standard rate of tax is 20%.

However, different rates apply to disposals of certain foreign life assurance policies, foreign investment products and certain gains of venture capital fund managers. Some assets are excluded from Capital Gains Tax and some gains are relieved from Capital Gains Tax.

3. Capital Gains accruing to persons other than companies are chargeable to Capital Gains Tax. Capital Gains accruing to companies are chargeable to Corporation Tax (with some exceptions).
4. The taxation of capital gains is incorporated into the Taxes Consolidation Act 1997 as amended by subsequent Finance Acts. Previously it was governed by the Capital Gains Tax Act 1975 and the Corporation Tax Act 1976 as amended by the Capital Gains Tax (Amendment) Act 1978 and subsequent annual Finance Acts.
5. Self-Assessment rules apply to Capital Gains Tax.
6. All amounts in this Guide are in Euro. The conversion rate between the Euro and the IR£ is €1 = £0.787564.

Chapter 1

Scope of Capital Gains Tax

For Capital Gains Tax purposes a “person” can mean a body corporate, an unincorporated body as well as an individual.

1. Persons chargeable

Person resident or ordinarily resident

Any person who is resident or ordinarily resident in the State for a year of assessment is liable to tax on worldwide chargeable gains accruing on the disposal of chargeable assets made during that year.

In the case of an individual who is resident or ordinarily resident but not domiciled in the State, gains realised on disposals of assets situated outside the State are liable to tax only to the extent that they are remitted to this country. Such gains are not chargeable to tax until so remitted. For disposals prior to 20 November 2008, gains on assets situated in the UK are chargeable in full.

Person neither resident or ordinarily resident

A person who is neither resident nor ordinarily resident in the State is liable to tax only in respect of gains on disposals of the following categories of assets -

- (a) land and buildings in the State,
- (b) minerals in the State or any rights, interests or other assets related to exploration for or exploitation of such minerals,
- (c) exploration or exploitation rights in a designated area of the Irish Continental Shelf,
- (d) shares, other than shares quoted on a Stock Exchange, deriving their value or the greater part of their value directly or indirectly from assets in (a), (b) or (c), and
- (e) assets in the State used for the purposes of a business carried on in the State.

Temporary Non-Residence

Gains accruing to an individual on the disposal of certain shares, or rights to acquire certain shares, during a period of temporary non-residence may be chargeable to Capital Gains Tax where that individual was resident and domiciled in the State at some stage prior to departure from the State.

Explanation of the terms “Residence”, “Ordinary Residence” and “Domicile”

1.1 How do I know if I am resident in Ireland for a tax year?

Your *residence* status for Irish tax purposes is determined by the number of days you are present in Ireland during a given tax year (1 January to the following 31 December). You will therefore be a resident of Ireland in either of the following circumstances:

- ♦ if you spend 183 days or more in Ireland for any purpose in the tax year in question

or

- ♦ if you spend 280 days or more in Ireland for any purpose over a period of two consecutive tax years you will be regarded as resident in Ireland for the second tax year. For example, if you spend 140 days here in year 1 and 150 days here in year 2 you will be resident in Ireland for year 2.

(However, if you spend 30 days or less in total in Ireland in either tax year those days will not be reckoned for the purposes of applying this test.) A ‘day’ for residence purposes is one on which you are present in Ireland at any time during the day. For 2008 and previous years a ‘day’ is one on which you are present in Ireland at midnight.

1.2 What is Ordinary Residence?

The term *Ordinary Residence* as distinct from residence refers to an individual’s pattern of residence over a number of tax years. If you have been resident in Ireland for three consecutive tax years you are regarded as ordinarily resident from the beginning of the fourth tax year. Conversely you will cease to be ordinarily resident in Ireland having been non resident for three consecutive tax years.

1.3 What is Domicile?

Domicile is a concept of general law. It is broadly interpreted as meaning residence in a particular country with the intention of residing permanently in that country. Every individual acquires a domicile of origin at birth. An Irish domicile of origin will remain with an individual until such time as a new domicile of choice is acquired. However, before that domicile of origin can be shed there has to be clear evidence that the individual has demonstrated a positive intention of permanent residence in the new country and has abandoned the idea of ever returning to live in Ireland. An individual’s domicile status can influence the extent to which foreign sourced gains are taxable in Ireland.

2. Assets

All forms of property, wherever situated, are assets for the purposes of Capital Gains Tax. Assets include foreign land and buildings (for example, holiday homes and apartments) incorporeal property (for example, goodwill or an option) and any interest in property (for example, a lease) but do not include Irish currency. However, certain assets are not chargeable assets and certain gains are not chargeable gains (see Chapter 5, paragraphs 3 and 4).

3. Disposal

Disposal of an asset includes any transfer of ownership of the asset by way of sale, exchange, gift, or settlement on trustees. A part disposal occurs where less than the whole of an asset is disposed of or an interest in an asset is transferred (for example, granting of a lease at a premium). The receipt of a capital sum derived from an asset is treated as a disposal or part disposal of the asset, for example, compensation or insurance money for the loss of an asset, or compensation for forfeiture or surrender of rights in an asset. In the case of shares in a company or mutual society there is a disposal for Capital Gains Tax purposes where a person receives capital payments in respect of their shareholding/interest held in the paying company.

Disposals which are not made at “arm’s length”, e.g. gifts, are deemed to have been made at market value (see Chapter 3, paragraph 2).

4. Computation of Gain

The chargeable gain accruing on a disposal of an asset is calculated by deducting, from the consideration (or deemed consideration) received for the disposal, the cost of acquisition of the asset and any expenditure incurred on its enhancement (see Chapter 3, paragraph 1). The amounts so deductible may be adjusted to take account of inflation (see Chapter 3, paragraph 4). Incidental costs of making the disposal may also be deducted.

5. Rate of tax

The standard rate of tax on Capital Gains made on or after 7 December 2011, including disposals of development land, is 30%. For certain windfall gains the windfall gains rate of tax is 80%. The rate of tax for disposals made between 8 April 2009 and 6 December 2011 is 25%. The rate of tax for disposals made between 15 October 2008 and 7 April 2009 is 22%. For Capital Gains made on or before 14 October 2008 the standard rate of tax was 20%. However, a rate of 40% applies to disposals of certain foreign life assurance policies and foreign investment products, while rates of 12.5% and 15% apply to certain venture capital fund managers.

Where land has been acquired under a compulsory purchase order for road construction purposes, the rate of tax applicable may be different from that in place at the time of disposal (see Chapter 4, paragraph 5, for more details on this).

Details of the rates applicable to earlier tax years are available from any Revenue office on request or on Revenue's website www.revenue.ie.

6. Losses

A loss on a disposal will normally be allowable if a gain on the same transaction would have been chargeable.

Allowable losses are set against the chargeable gains of the same year and if the losses exceed the gains, the excess may be carried forward against gains of later years.

Losses accruing in the year of death which cannot be deducted from chargeable gains accruing in that year may be set off against chargeable gains of the deceased in the previous three years of assessment. Special provisions apply to losses on certain disposals, for example shares sold within four weeks of acquisition and disposals of development land.

7. Death

Where assets pass on death there is, in general, no charge to Capital Gains Tax. The person acquiring the assets is treated, in relation to a subsequent disposal of those assets, as if they had been acquired at their market value at the date of the death or, if the death took place before 6 April 1974 the market value at 6 April 1974 (see Chapter 3, paragraph 3).

8. Assessments

Chargeable gains are taxed on the total amount of gains (less any allowable losses -see paragraph 6 above) accruing in a year of assessment.

Chargeable gains are charged to Capital Gains Tax except in the case of companies chargeable to Corporation Tax. Chargeable gains (other than gains on the disposal of development land) accruing to a company chargeable to Corporation Tax are included in its profits for the accounting period in which the gains accrue and are charged to Corporation Tax for that period (see Chapter 7).

Exceptionally, the tax on chargeable gains accruing in the case of a disposal by a liquidator, receiver, mortgagee or similar person, is recoverable by way of an **Income Tax assessment**.

9. Self-Assessment

Capital Gains Tax payable on chargeable gains is subject to Self-Assessment (see Chapter 2 for a brief outline of the principal features of Self-Assessment).

10. Time of Disposal and Acquisition

The main rules for determining the time of disposal and acquisition for Capital Gains Tax purposes are as follows:

- ◆ For a disposal under an unconditional contract the time of disposal and acquisition is the date the contract is made, **not** the completion date.
- ◆ Where the contract is subject to a condition, the time of disposal and acquisition is the date the condition is satisfied, not the completion date. A contract is conditional if a condition must be satisfied before an obligation to perform the contract arises. For example, where the acquisition of land is subject to the purchaser obtaining planning permission, the time of disposal and acquisition is the date the permission is obtained.
- ◆ On a compulsory acquisition of land by an authority possessing the relevant powers, typically by means of a Compulsory Purchase Order (CPO), the time of disposal and acquisition is the date the compensation is agreed or determined or, if earlier, the time of entry by the authority on the land. The gain will not be treated as arising until the year in which the compensation is received. However, in such circumstances the date the disposal is made will determine the rate of CGT.

11. Payment of Tax

The tax year is divided into two periods for Capital Gains Tax payment purposes:

- ◆ 'Initial Period' - 1 January to 30 November, both inclusive
- ◆ 'Later Period' - 1 December to 31 December, both inclusive. The due dates for Capital Gains Tax are as follows:

Disposal	Tax Due by
On or before 30 November in the tax year - Initial Period	15 December in that tax year
From 1 December to 31 December in the tax year - Later Period	31 January in the following tax year

The due dates for payment on disposals prior to 2009 were different from the current dates, these were:

Disposal	Tax Due by
On or before 30 September in the tax year - Initial Period	31 October in that tax year
From 1 October to 31 December in the tax year - Later Period	31 January in the following tax year

- ◆ Where gains are chargeable to Corporation Tax (see paragraph 8), the due date for payment is determined by reference to the accounting period in which the gains accrue.

Chapter 2

Capital Gains Tax - Self-Assessment

1. Principal Features

- ♦ Self-Assessment applies to all Capital Gains Tax liabilities for all persons, i.e. the self-employed and others directly assessed to tax, individuals on PAYE and persons not already within the tax system.
- ♦ Returns of Capital Gains must be made by taxpayers without being required to do so by Revenue.

2. Capital Gains Tax -Payment

Payment of Capital Gains Tax should be accompanied by a CGT payslip and should be submitted to:

Office of the Revenue Commissioners,
Collector-General's Division,
Sarsfield House,
Francis Street,
Limerick.

Blank payslips are available on request from the Collector-General's Division by phoning 1890 20 30 70, from Revenue's website www.revenue.ie, or from any revenue office. If you are Self-Assessed you will have a payslip on your personalised tax return.

3. Return Filing

A return of all chargeable gains and allowable losses must be made on or before 31 October in the year following the year of disposal (as for Income Tax Self-Assessment). The obligation to make a return exists even where a person has not been issued with a return form by Revenue, or where no tax is due because of the use of reliefs, losses etc.

- ♦ PAYE taxpayers should make the return on a Form 12
- ♦ Self-Assessed individuals should make the return on a Form 11E or Form 11,
- ♦ Trusts and Estates should make the return on a Form 1,
- ♦ Partnerships should make the return on a Form 1(Firms),
- ♦ Companies should make the return on a Form CT1,
- ♦ Persons who are not required to make an Income Tax return, including non-residents, should make the return on a Form CG1.

These forms can be obtained from Revenue's website www.revenue.ie, or from Revenue's Forms and Leaflets service by phoning LoCall 1890 306 706 or from any Revenue office.

Alternatively, if you wish you can file a Form 11, Form 1, Form 1(Firms) or Form CT1 electronically using the Revenue On-Line Service (ROS) and you may also submit your return of chargeable gains electronically as part of the electronic version of the return. Access ROS at www.revenue.ie

4. Surcharge

Failure to submit a return on time will result in a surcharge being added to the basic Capital Gains Tax liability. The surcharge is either:

- (a) 5% of the amount of the tax due subject to a maximum of €12,695 where the return is delivered before 31 December in the year following the end of the year of assessment
- or
- (b) 10% of the amount of the tax due subject to a maximum of €63,485 where the return is not delivered before 31 December in the year following the end of the year of assessment.

5. Assessments

A Capital Gains Tax assessment will normally be made following the receipt of a return of chargeable gains.

There is provision for the making of assessments before the end of a year of assessment in certain circumstances, for example, in the case of disposals by non-resident persons.

6. Companies Capital Gains

Companies are chargeable to Capital Gains Tax on chargeable gains from disposals of development land. The Self-Assessment provisions outlined above will accordingly apply to companies in respect of chargeable gains from disposals of development land.

(Companies are already subject to Self-Assessment under Corporation Tax in respect of all other chargeable gains (see Chapter 7))

Chapter 3

Calculation of Gain or Loss

1. Deductible expenditure

The amount of a chargeable gain or an allowable loss is determined by deducting any allowable expenditure from the consideration received for the disposal. The allowable expenditure may include:

- (a) the cost of acquisition of the asset and any incidental cost of acquisition such as agent's commission and costs of transfer or conveyance,
- (b) expenditure incurred for the purpose of enhancing the value of the asset which is reflected in the state of the asset at the time of disposal; expenditure to establish, preserve or defend legal title, and
- (c) the incidental costs of making the disposal, such as legal and selling costs.

The amounts under (a) or (b) above may be adjusted to take account of inflation (see paragraph 4 below).

If any part of the consideration received, or the expenditure within (a), (b) or (c) above, is taken into account in computing any income or loss for the purposes of Income Tax or Corporation Tax on income, it must be excluded from the calculation of a chargeable gain or an allowable loss on the disposal. An exception is made in the case of expenditure on the acquisition of certain shares which, even though the expenditure qualifies for relief from Income Tax, may be deducted in computing a chargeable gain (but not an allowable loss) on a disposal of the shares (see Chapter 6, paragraph 4).

2. Acquisition or disposal not at arm's length

When an asset is acquired, or disposed of, otherwise than by way of a bargain made at arm's length, e.g. gift, it is treated as an acquisition or a disposal of the asset for a consideration equal to its market value at that time.

This means that where a person disposes of an asset either by sale or by gift for an amount less than its market value they will be liable to Capital Gains Tax on the deemed gain.

Instances where CGT is due on a "deemed" gain would usually involve "connected persons", for example a parent who transfers assets to their children for little or no payment. The recipient of these assets themselves may, depending on the circumstances, have a liability to Capital Acquisitions Tax (Gift Tax) and/or Stamp Duty.

3. Assets held prior to 6 April 1974

In the case of expenditure incurred before 6 April 1974, the asset is deemed to have been sold and re-acquired at its market value on that date and that market value is the allowable expenditure for the purpose of the calculation and for the purpose of indexation relief - see paragraph 4 hereunder.

4. Adjustments for inflation (indexation relief)

For disposals made on or after 1 January 2003 indexation relief will **only** apply for the period of ownership of the asset up to 31 December 2002.

Where indexation relief does apply, you should note the following:

- ◆ If the expenditure incurred on acquiring or enhancing ((a) or (b) in paragraph 1 above) an asset, was incurred more than twelve months before the date of its disposal, the amount of that expenditure may be adjusted to take account of inflation (subject to certain limitations in the case of development land - see Chapter 4, paragraph 4(i)).
- ◆ The adjustment is made by multiplying the relevant item of allowable expenditure by a factor, the “multiplier”, which reflects the change in the All Items Consumer Price Index during the period since the asset was acquired. The multiplier to be applied depends on the year of assessment in which the expenditure was incurred and the year of assessment in which the disposal is made.
- ◆ A schedule of multipliers for the years 1995/96 et seq. is set out in **Appendix 1** on page 38 of this Guide.
- ◆ The adjustment for inflation cannot operate to charge an amount in excess of the monetary gain, or to transform a monetary loss into a gain; neither can it increase a monetary loss or transform a monetary gain into an allowable loss. If, as a result of the adjustment for inflation, a loss would be substituted for a monetary gain, or a gain for a monetary loss, the disposal of the asset is treated as giving rise to neither a gain nor a loss.

5. Assets acquired and/or disposed of in Foreign Currencies

Where acquisitions and disposals are made in foreign currencies the cost of acquisition and the disposal proceeds should be converted to Euro at the dates of acquisition and disposal respectively. Refer to **Example 10**, Chapter 11, for a practical example of how to calculate a chargeable gain and tax payable where assets are acquired and disposed of in a foreign currency.

6. Example

Refer to **Example 1**, Chapter 11, for a practical example of how to calculate a chargeable gain and tax payable.

Chapter 4

Development Land/Windfall Gains

1. Scope of special provisions

Special provisions, which are contained in Sections 648 to 653 Taxes Consolidation Act 1997, apply to chargeable gains from disposals of “development land”, including shares (other than shares quoted on a Stock Exchange) deriving their value, or the greater part of their value, directly or indirectly from such land. Broadly, “development land” means land (including buildings) in the State which is disposed of for a price higher than its “current use value” i.e. the value it would have if no development other than development of a minor nature could be carried out in relation to the land. The special provisions include restrictions on indexation, roll-over relief and relief for losses (see paragraph 4 below).

2. Consideration not exceeding €19,050

Where the total consideration receivable by an individual for disposals of development land in any year of assessment does not exceed €19,050, the gains on those disposals are not subject to the special provisions but are taxed as if they were gains on disposals of non-development land. This provision does not apply to companies, trustees or other non-corporate bodies.

3. Restriction of reliefs, etc.

The following restrictions apply to the disposal of development land:

- (i) Indexation relief (see Chapter 3, paragraph 4) is confined to the amount of the “current use value” of the land at its time of acquisition or at 6 April 1974, if acquired prior to that date (see **Example 2** in Chapter 11). Also, indexation relief is not available on enhancement expenditure (see Chapter 3, paragraph 1(b)).
- (ii) Roll-over relief which, subject to short term transitional arrangements, was discontinued for disposals after 3/12/2002 applied to disposals of development land only in very limited circumstances (further details are available in earlier Guides to Capital Gains Tax available on Revenue’s website www.revenue.ie).
- (iii) Losses accruing on the disposal of assets which are not development land may not be offset against development land gains.
- (iv) Gains accruing to companies on disposals of development land are charged to Capital Gains Tax instead of Corporation Tax (see Chapter 7, paragraph 1).
- (v) Where an individual disposes of his/her private residence and/or its gardens or grounds the private residence relief (see Chapter 5, paragraph 5) is restricted if the property is development land. The relief is confined to what it would be if the property did not have development value (see **Examples 3 & 4** in Chapter 11).

4. Land disposed of under Compulsory Purchase Order (CPO)

On a compulsory acquisition of land by an authority possessing the relevant powers, typically by means of a CPO, the time of disposal and acquisition is the date the compensation is agreed or determined or, if earlier, the time of entry by the authority on the land. The gain will not be treated as arising until the year in which the compensation is received. However, in such circumstances the date the disposal is made will determine the rate of CGT.

5. Windfall Gains Tax

The National Assets Management Agency Act introduced a “windfall gains tax” on certain capital gains. This tax is charged at a rate of 80% in respect of a disposal of development land where both a rezoning and a disposal took place on or after 30 October 2009. Finance Act 2010 widened the scope of the provision by introducing a Relevant Planning Decision, which includes both a rezoning and a material contravention of a development plan. This change applies to decisions made on or after 4 February 2010.

A “relevant planning decision” will, in general terms, mean a change in the zoning of land from non-development land-use to development land-use or from one development land-use to another development land-use, including a mixture of such uses. It also applies to a decision to grant permission for a development that would materially contravene a development plan. While the Office of the Revenue Commissioners can be contacted in order to provide full information as to these definitions, it may be necessary to consult with the relevant local authority to establish if a “relevant planning decision” has taken place in any particular instance.

The 80% rate is charged on the amount by which the land increased in value as a result of the “relevant planning decision”. The remainder of the gain will be taxed at the 30% rate with effect from 7 December 2011. For Capital Gains made between 8 April 2009 and 6 December 2011 inclusive, the standard rate of tax on Capital Gains is 25%.

The windfall tax will not apply in relation to gains derived from “relevant planning decisions” where:

- ♦ The disposal of land occurs as a result of a CPO.
- ♦ The disposal is by a company in which the National Asset Management Agency owns any part of the ordinary share capital, or by a company which is an effective 75% subsidiary of such a company.
- ♦ The disposal is of a site of 0.4047 hectares or less, whose market value at date of disposal does not exceed €250,000, other than where the disposal forms part of a larger transaction or series of transactions. This exemption applies regardless of whether planning permission has been granted for the disposal.

A windfall gain may only be relieved by a loss on development land to the extent to which the loss is attributable to a Relevant Planning Decision.

There are provisions included to ensure that the 80% charge cannot be side-stepped by a transfer between connected persons.

Chapter 5

Main Exemptions and Reliefs

1. Indexation

The expenditure allowable in computing the chargeable gain arising on the disposal of an asset can be increased to take account of inflation for the period of ownership of an asset up to the 31 December 2002 (see Chapter 3, paragraph 4). The increase is, however, subject to limitation in the case of a disposal of development land (see Chapter 4, paragraph 4). A schedule of the inflation/indexation multipliers covering the years of assessment 1995/96 et seq. is set out in **Appendix 1**.

2. Personal exemption

The first €1,270 of an individual's net gains (i.e. gains less losses, including losses brought forward from earlier years) are not chargeable. This exemption is not transferable, either wholly or partly, between spouses or civil partners.

The exemption applies to individuals only. It does not apply to companies, trustees or other non-corporate bodies.

A non-resident individual is entitled to the exemption.

3. Non - chargeable assets

The following assets are not chargeable assets and no chargeable gain or allowable loss can arise on their disposal -

- (i) securities (including savings certificates) issued under the authority of the Minister for Finance,
- (ii) land bonds issued under the Land Purchase Acts,
- (iii) stock issued by a local authority or a harbour authority mentioned in the First Schedule to the Harbours Act, 1946,
- (iv) securities issued by the Housing Finance Agency under section 10 of the Housing Finance Agency Act, 1981,
- (v) debentures, debenture stock, certificates of charge or other forms of security issued by the ESB, Bord Gáis, RTE, CIE, Bord na Mona or Dublin Airport Authority. Securities of the following bodies are not chargeable as sets if they issued before the relevant date as set out below:

Name of Body	Relevant Date
ICC Bank	12/2/2001
Bord Telecom Eireann	15/2/2001
Irish Telecommunications Investments	15/2/2001
ACC Bank	28/2/2002

- (vi) securities issued by a body designated under section 4(1) of the Securitisation (Proceeds of Certain Mortgages) Act, 1995,
- (vii) securities issued in the State, with the approval of the Minister for Finance, by the European Community, the European Coal and Steel Community, the International Bank for Reconstruction and Development, the European Atomic Energy Community or the European Investment Bank,

- (viii) securities issued by An Post and guaranteed by the Minister for Finance,
- (ix) securities issued by the National Development Finance Agency under section 6 of the National Development Finance Agency Act 2002,
- (x) certain future contracts which are based on the exempted assets mentioned in (i) to (ix).

4. Non - chargeable gains

Certain gains are not chargeable, including:

- (i) bonuses payable under the National Instalment Savings Scheme and Prize Bond winnings,
- (ii) gains realised from life assurance policies and deferred annuity contracts, unless purchased from another person or taken out with certain foreign insurers on or after **20/5/1993**,
- (iii) gains on the disposal, by an individual, of tangible movable property (i.e. chattels) worth **€2,540** or less at the time of disposal; but the disposal of a set of articles to the same person, or to connected persons, or to persons acting in concert, is treated as a single disposal of one asset for the purposes of the **€2,540** limit,
- (iv) gains on the disposal of wasting chattels of whatever value, for example animals, including bloodstock, and private motor cars,
- (v) gains accruing to local authorities and other bodies, and certain gains accruing to sports clubs, superannuation funds, trade unions and charities,
- (vi) gains from betting, lotteries and sweepstakes.

5. Principal Private Residence

Full relief

A gain on the disposal by an **individual** of a dwelling-house (including grounds of up to one acre) is exempt in certain circumstances. The exemption is available if, throughout the individual's period of ownership, the house had been occupied by the individual as his/her only or main residence or, under certain circumstances, as the sole residence of a dependent relative. In the case of a married couple or civil partners living together only one house can qualify as the only or main residence of both spouses or civil partners. This exemption is not affected by the granting of relief under the rent-a-room scheme (Section 216A TCA 1997). Please note the conditions below where partial relief may apply.

Partial Relief

- ◆ Full exemption may not be due if only part of the house has been used as the individual's residence, in which case an apportionment is made to arrive at the exempt portion of the total gain. This may happen where the house is used partly for business purposes or where rooms in the house have been let.
- ◆ The exemption is also restricted where the taxpayer has not lived in the house for long periods. However, a period of up to twelve months immediately before the end of the period of ownership is treated as a period of occupation even though the owner may not have been actually living in it during that period. (see **Example 5** in Chapter 11).
- ◆ When the private residence comprises development land and the consideration exceeds €19,050, the private residence relief is restricted. This includes the disposal of a garden or part of a garden of a principal private residence as development land, e.g. if sold as a site, or for access, right of way etc. No restriction applies if the consideration (or open market value, if it is transferred in a non arm's length transaction e.g. gift) does not exceed €19,050.

In addition to the above the following periods of absence from the house are also regarded as periods of occupation:

- (a)
 - (i) any period throughout which the individual was employed outside the State, and
 - (ii) a period of up to four years during which the individual was required by the conditions of his/her employment to reside elsewhere.

providing that, both before and after those periods, the house was the owner's only or main residence and throughout those periods he/she had no other house eligible for exemption.
- (b) any period of absence during which both of the following circumstances apply:
 - (i) the claimant (who would normally live alone) was receiving care in a hospital, nursing home or convalescent home, or was resident in a retirement home on a fee paying basis, and
 - (ii) the private residence remained unoccupied.
- (c) a period of absence as in (b)(i) above during which the residence was occupied rent free by a relative of the claimant, for the purpose of security or maintaining it in a habitable condition.

6. Transfer of a site from parent to child

There is an exemption from Capital Gains Tax on the disposal of a site from a parent to a child (including certain foster children) where the transfer is to enable the child construct a principal private residence on the site. The market value of the site must not exceed €500,000 (€254,000 for disposals prior to 5 December 2007). For transfers on or after 1 February 2007 the area of the site (exclusive of the area on which the house is to be built) must not exceed 0.4047 hectare, i.e. one acre.

The term "disposal" includes a simultaneous disposal by both parents to their child.

If the child subsequently disposes of the site without having occupied a principal private residence on the site for at least three years, then the capital gain which would have accrued to the parent on the initial transfer will accrue to the child in addition to his/her own gain. However, the gain will not accrue to the child where he or she transfers an interest in the site to a spouse or civil partner.

7. Disposal of a business or farm (other than to one's child - see Paragraph 8)

Summary of relief

Relief from Capital Gains Tax may apply where an individual, who is at least 55 years of age at the time of disposal, disposes of the whole or part of his/her qualifying assets.

Where the consideration does not exceed €750,000 (€500,000 for disposals prior to 1 January 2007) relief is given in respect of the full amount of tax chargeable on the disposal.

Where the consideration exceeds €750,000, marginal relief applies so as to limit the amount of tax chargeable to one-half of the difference between the amount of the consideration and €750,000.

Although the relief is commonly known as "retirement relief" a claimant does not have to retire (in the popular sense of the word) in order to qualify.

Lifetime Limit

It should be noted that the threshold of €750,000 is a lifetime limit for disposals of qualifying assets on or after 6 April 1974 made at a time when the individual was at least 55 years of age. Thus, relief for any year is to be computed as if all such disposals for that year and earlier years had all been made in the later year. Where the threshold is exceeded, any earlier relief given may be withdrawn by means of assessment or additional assessment.

Meaning of “Qualifying Assets”

The following are “qualifying assets” for the purposes of this paragraph and paragraph 8. Please note that some of the terms used have specific meanings for the purpose of the relief. Where necessary you should contact your local Revenue office or your Tax Advisor.

- ♦ the chargeable business asset of the individual which (apart from tangible movable property) he/she has owned for a period of at least 10 years ending on the date of the disposal and which have been his or her chargeable business assets throughout that 10 year period,
- ♦ shares or securities held for at least the 10 year period ending with their disposal in a company which has been -
a trading or farming company and the individual’s family company, or
a member of a trading group of which the holding company is the individual’s family company during at least the 10 year period ending with the disposal, and the individual has been a working director of the company for at least 10 years during which he/she has been a full-time working director for at least 5 years,
- ♦ payment entitlements (see Council Regulation (EC) No. 10 1782/2003 of 29 September 2003) where they are disposed of at the same time and to the same person as land, to the extent that the land would support a claim to payment in respect of those payment entitlements,
- ♦ land and machinery or plant owned by the individual for at least 10 years ending with the disposal which land -
was used throughout that period for the purposes of the individual’s family company (or member of the trading group), and
is disposed of at the same time and to the same person as the shares concerned,
- ♦ land leased under Scheme of Early Retirement from Farming, where for a period of not less than 10 years prior to the land being leased it was owned by the individual claiming relief and used by him or her for the purposes of farming throughout that period,
- ♦ land which was let during the 5 year period prior to its disposal under a compulsory purchase order for the purpose of road construction and certain related activities but, prior to its first letting, was farmed for 10 years by the person making the disposal, and
- ♦ land which was let at any time during the 15 year period prior to its disposal but, prior to its first letting, was farmed for 10 years by the individual making the disposal and the disposal is to a child (within the meaning of paragraph 8 below) of the individual concerned.

Disposal prior to 55th birthday

Where an individual disposes of ‘qualifying assets’ before his/her 55th birthday, Revenue will consider claims for relief where all the following conditions are present:

- ♦ The claimant is, due to severe or chronic ill health, unable to continue farming, or in his/her trade, profession, office or employment or as a working director in a relevant company,
- ♦ On cessation the claimant disposes of ‘qualifying assets’ and at that time the conditions for relief, other than the age requirement, are satisfied,
- ♦ At the time of disposal the claimant is within twelve months of his/her 55th birthday.

An individual claiming retirement relief on these grounds should provide medical evidence of the illness and outline the circumstances in which the relief is being claimed.

This applies to disposals occurring on or after 14 May 2004

8. Disposal of a business or farm (to a child)

Irrespective of the amount of consideration for the disposal, full relief may be claimed by an individual aged 55 years or over on the disposal to his/her child, of the whole or part of his/her qualifying assets (see paragraph 7 above).

Meaning of child

For the purposes of this paragraph and paragraph 7 a child includes

- ◆ a child of a deceased child,
- ◆ a nephew or niece of the individual making the disposal who has worked full-time in running or assisting in the running of the business or farm concerned for minimum of 5 years ending on the date of the disposal.
- ◆ a foster child who was under the care of, and was 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 that such foster child attained the age of 18 years, but only if the claim for relief is not based on the uncorroborated testimony of one witness.

Clawback of relief

The relief is clawed back where the child disposes of an asset within six years of the date of acquisition from his/her parent. The relief is withdrawn by way of an assessment on the child. In effect, the tax which would have been charged on the parent if the relief had not applied is charged on the child, in addition to any tax chargeable on the gain accruing on the child's disposal of the asset.

9. Roll-over Relief

The following reliefs were discontinued for disposals after 3/12/2002;

- ◆ Replacement of business and other assets
- ◆ Relief on certain investment property
- ◆ Relief for individuals on certain share re-investment
- ◆ Compulsory acquisition relief

Transitional provisions applied to 31/12/2003 (further details are available in earlier Guides to Capital Gains Tax available on Revenue's website www.revenue.ie).

10. Compensation and Insurance Money

The receipt of compensation or insurance money for damage to or destruction of assets, or of sums for the forfeiture or surrender of rights or for the use or exploitation of assets may, in certain circumstances, be treated as a disposal for CGT purposes. The resultant charge to tax may be deferred if the money received is used in restoring or replacing the asset. The amount received is treated as reducing the cost of the asset (or, in the case of the loss or destruction of the asset, the cost of replacing it), and the charge on the compensation money is not imposed until the asset or the asset replacing it has been disposed of. The relief must be claimed – it does not apply automatically.

11. Dissolution of farming partnerships

Relief from Capital Gains Tax may be due where partners in a farming partnership dispose of assets on the dissolution of the partnership. In general the assets must have been owned and used by the partnership for a period of 10 years prior to its dissolution.

Where relief applies, any gain on the disposal will be treated as not accruing and the person acquiring the asset will be treated as having acquired it at the same time and for the same consideration as it was acquired by the disponent. The relief does not apply to trading stock.

This applies to disposals made on or after 13 March 2008 and will cease on 31 December 2013.

12. Return of Capital Gains / Losses

A return of all chargeable gains and allowable losses must be made on or before 31 October in the year following the year of disposal (as for Income Tax Self-Assessment). The obligation to make a return exists even where a person has not been issued with a return form by Revenue, or where no tax is due because of the use of reliefs, losses etc (see Chapter 9).

Chapter 6

1. Married Persons or Civil Partners

The net gains which accrue in a year of assessment to spouses or civil partners living together are charged on the assessable spouse or nominated civil partner unless either the husband, wife or either civil partner has applied to be charged separately. Applications for separate assessment must be made before 1 April in the year following the year of assessment.

In general, transfers of assets between spouses or civil partners living together in a year of assessment are not treated as disposals for Capital Gains Tax purposes. Instead, the spouse or civil partner receiving the asset is treated as having acquired it at the same time and for the same consideration as the transferring spouse or civil partner originally acquired it.

This general treatment does not apply to disposals on or after 7 December 2005 where the spouse or civil partner acquiring the asset would not be within charge to Irish Capital Gains Tax if he or she disposed of it in the year of acquisition from the other spouse or civil partner (for example if he or she was resident outside the State and by virtue of a Double Taxation Agreement the gain could not be taxed here).

In addition the general treatment does not apply to the disposal of trading stock between spouses or civil partners.

2. Separated/Divorced Spouses or Civil Partners in a Civil Partnership which has been dissolved: Transfer of Assets

Where assets are transferred between separated or divorced spouses or civil partners in a civil partnership which has been dissolved in certain specified circumstances, e.g. by virtue or in consequence of a deed of separation or an order made on or following judicial separation or an order made under Part III of the Family Law (Divorce) Act 1996, the transfer will not give rise to a Capital Gains Tax liability. Instead, the spouse or civil partner receiving the asset is treated as having acquired it at the time and for the same consideration as the transferring spouse or civil partner originally acquired it (similar to assets transferred between married persons or civil partners as in paragraph 1 above).

As with married persons and civil partners this treatment does not apply to the transfer of certain assets on or after 7 December 2005 or to trading stock at any time (see paragraph 1 above).

3. Trustees

A trustee of a settlement is responsible for making an annual return of the Capital Gains which accrue to the trust on the disposal of trust assets. Certain changes in the beneficial interests under a settlement (e.g. a person becoming absolutely entitled to settled property) may also give rise to a charge to Capital Gains Tax.

4. Certain shares

Special rules apply to shares acquired under the income tax schemes for Relief for Investment in Corporate Trades ("BES") and relief for Investment in Research and Development. The income tax relief given for the purchase of these shares is ignored in computing a taxable gain (**but not a loss**) on their disposal so that the gross cost is deductible.

5. Partnerships

Partnership dealings in assets are treated as dealings by the partners in their respective shares of those assets.

6. Other Special Categories

Special rules apply in the following categories -

- (a) disposals to the State, charities and other bodies.
- (b) disposals of works of art which had been lent to the Irish Heritage Trust or an approved museum or gallery for exhibition for 10 years (6 years if lent before 2 February 2006). In relation to the Irish Heritage Trust only loans on or after 1 January 2006 will qualify for relief.
- (c) disposals of leasehold property and the grant of a lease at a premium.
- (d) transfer of a business to a company.
- (e) part disposals of assets, and
- (f) disposals by a liquidator of a company, a receiver or a mortgagee.
- (g) disposals by sporting bodies.
- (h) non-competition agreements.

Information on the treatment in such cases can be obtained from your Revenue office.

Chapter 7

Companies

Taxation of chargeable gains

1. Chargeable gains accruing to companies may be charged either to Capital Gains Tax or to Corporation Tax as follows -

(a) Capital Gains Tax:

Gains accruing on disposals of development land are charged to Capital Gains Tax (see Chapter 4). Gains accruing to a non-resident company on the disposal of certain non-trading assets situated in the State are also charged to Capital Gains Tax (see Chapter 1, paragraph 1).

(b) Corporation Tax:

All other gains are charged to Corporation Tax. These include gains accruing to a non-resident company on the disposal of assets situated in the State and used for the purpose of a trade carried on by it in the State through a branch or agency.

2. Where the Capital Gains of a company are chargeable to Corporation Tax, the computation of the gain is made in accordance with the Capital Gains Tax provisions but the following special provisions also apply:

- (i) The amount of the liability is computed according to the appropriate rate of Capital Gains Tax. Where the rate of Corporation Tax and the rate of Capital Gains Tax are different a notional amount of gain is calculated so that when it is charged at the (different) rate of Corporation Tax, the correct amount of liability is assessed. For example, if the Capital Gain in 2009 is €10,000 @ 25% = €2,500 and, say, the appropriate rate of Corporation Tax for the relevant accounting period is 12.5%, the amount to be brought into the Corporation Tax assessment is €20,000 which, when taxed at a Corporation Tax rate of 12.5%, equals €2,500.
- (ii) The liability is assessed for the accounting period in which the gain accrued and is included with any other profits of the accounting period.
- (iii) Trading losses may only be offset against trading income for the same and immediately preceding accounting period on a euro for euro basis. Any unused trading loss may be offset against non-trading income, including chargeable gains, but only on a value basis. For example, if the company has an unused trading loss in 2009 of, say, €100,000 and a chargeable gain of €100,000 the company can get relief for the loss at the rate of 12.5% against the liability on the chargeable gain. Tax due on the chargeable gain is €22,000 and the company can get loss relief of €12,500 leaving a net liability of €9,500.
- (iv) Losses of a company on non-development land assets may be offset against chargeable gains - other than development land gains - of that company only, in the current accounting period and any unused balance can be carried forward. Losses on the disposal of development land can, however, be offset against gains arising on other assets.

Chapter 8

Taxation of shares - FIFO rules / Bonus and Rights Issues

1. General

Like any other Capital Gains Tax computation, a chargeable gain on the disposal of company shares is arrived at by deducting the cost of the shares (adjusted for inflation as appropriate) from the net consideration received for the disposal of the shares - (see Chapter 3).

The calculation is relatively straightforward where a person acquires one block of shares and at a later date, without there having been any changes in the number or type, etc. of the shares held, sells all or part of that holding:

Calculation of gain*

Bought 100 Ordinary €1 shares for €2 per share in 2004

Sold 50 Ordinary €1 shares for €3 per share in 2006

Gain is: Proceeds €150, less cost €100 (50 x €2) = Gain of €50.

* (ignoring indexation, expenses of sale and personal exemption for ease of illustration)

Often, however, there will be increases in the shareholding, either because a person purchases additional shares of the same type or they receive additional shares under bonus or rights issues. There are special Capital Gains Tax rules for these situations.

2. First In - First Out (or “FIFO” rule)

Where a person holds shares of the same class which have been acquired at different dates, the shares acquired at the earlier time are deemed to be disposed of first. For example:

2001 bought 1,000 Ordinary €1 shares in X Ltd. for €1 per share

2003 bought 200 Ordinary €1 shares in X Ltd. for €1.50 per share

2005 bought 500 Ordinary €1 shares in X Ltd. for €2 per share

2006 sold 1,500 Ordinary €1 shares in X Ltd. for €3 per share

Sold 1,500 shares for €4,500 in 2006

Allowable cost - (ignoring indexation up to 31/12/2002)

Using “FIFO” Rule:

1,000	@	€1.00	=	€1,000
200	@	€1.50	=	€300
<u>300</u>	@	€2.00	=	€600
1,500				

Remaining shares 200 €1 Ord. in X Ltd. acquired in 2005 cost €2 per share.

(See Example 6, Chapter 11).

Disposal of shares within four weeks of acquisition

The FIFO rules are modified in any case where shares of the same class are bought and sold within a period of four weeks. Where shares are sold within four weeks of acquisition the shares sold are identified with the shares acquired within that period. Furthermore, where a loss accrues on the disposal of shares and shares of the same class are acquired within a four week period, the loss is not available for offset against any other gains arising. Instead the loss is only available for set off against any gain that might arise on the subsequent disposal of the shares so acquired in the four week period - this provision does not apply where there is a gain on the disposal.

3. Bonus / Rights issues

Sometimes the holder of a class of shares will receive additional shares, being either a bonus issue (no additional cost) or a rights issue (for a cost which is usually less than open market value), in respect of their holding. In these situations, despite the fact that the new shares are actually acquired at a later date, they are deemed to have been acquired at the date the original shares giving rise to the bonus or rights issue were acquired. Thus, if a person acquired, say 100 shares in company X Ltd. in 2003 and in 2005 received 50 shares as part of a bonus or rights issue they will be deemed to have held the entire holding of 150 shares from 2003.

Furthermore, there is no question of imputing a notional cost or value for the new shares acquired but the actual price paid to acquire the shares under a rights issue is allowed as enhancement expenditure - (see Chapter 3, paragraph 1(b)).

Bonus Issue

The effect of the above on a bonus issue is that the original cost is diluted between the original shares and the new shares acquired, for example:

2003 acquired 100 Ordinary €1 shares in X Ltd. for say €300 (or €3 per share)

2005 acquired 50 Ordinary €1 shares in X Ltd. for no cost (bonus issue 1 for 2)

All 150 shares are deemed to have been acquired in 2003 for a total cost of €300.

The revised cost per share is €2 (i.e. all 150 shares are deemed to have been acquired in 2003 for a total cost of €300 which "dilutes" the allowable cost per share to €2, €300 allowable cost ÷ 150 shares).

(See Example 7, Chapter 11).

Rights Issue

The treatment for shares acquired under a rights issue is the same as for a bonus issue except that an allowance has to be made for the amount paid to acquire the additional shares. Such payments are treated as enhancement expenditure, so that on the subsequent disposal of any of the shares, part of the cost of the rights issue will be attributed to the shares sold. Thus, using the same figures from the example immediately above, but assuming the additional shares acquired represented a rights issue for which a payment of say, €150 was made (€3 per share in rights issue) the resulting position would be as follows:

Again, all 150 shares are deemed to have been acquired in 2003 for a cost of €300, i.e. cost of €2 per share in 2003. They are also deemed to have a further additional cost (enhancement expenditure) of €150 in 2005. This enhancement expenditure ('EE') is again divided equally between the total number of shares held (i.e. €150 ÷ 150 shares or €1 per share EE). In simple terms, then, each share is deemed to have been held since 2004 and each has an allowable cost of €2 paid in 2003 and further enhancement expenditure of €1 paid in 2005.

(See Example 8, Chapter 11).

Shares of a different class

Occasionally the shares received in a bonus or rights issue will be shares of a different class to the shares held, e.g. one new Preference share for every two Ordinary shares held and so on. Where this happens the position is essentially the same as above except that it is necessary to apportion the allowable cost - including enhancement expenditure in the case of rights issues - between the different classes of shares. In the case of quoted shares this apportionment is done on the basis of the first day price of the respective shareholdings after the bonus/rights issue is made (for unquoted shares this apportionment is done by reference to the respective values of the shares at the date of disposal).

(See Example 9, Chapter 11).

Chapter 9

Returns, Appeals and Payment -Self-Assessment

1. Returns

A return of chargeable gains and allowable losses must be made on or before 31 October in the year following the year of assessment in which the disposal occurs. The obligation to make a Capital Gains Tax return exists even where a person has not been issued with a return form by Revenue, where the person has been relieved of the obligation to make an Income Tax return or where no tax is due because of the availability of reliefs, losses etc.

There is no need to give details of disposals of assets which are not chargeable assets (see Chapter 5, paragraph 3).

The return should include gains of the taxpayer's spouse or civil partner unless a separate return is being submitted by him/her (see Chapter 6, paragraph 1).

Generally, details of chargeable gains are returned on the Income Tax or Corporation Tax return forms (see Chapter 2, paragraph 3 for more details on return forms).

If you have not received a Tax Return form you can obtain one from Revenue's website www.revenue.ie, or from Revenue's Forms and Leaflets service by phoning LoCall 1890 306 706, or +353 1 67 44 050 for callers outside the Republic of Ireland, or from your local Revenue office.

Alternatively, if you wish you can file a Tax Return electronically using the **Revenue On-Line Service (ROS)** and you may also submit your return of chargeable gains electronically as part of the electronic version of the return. Access ROS at www.revenue.ie

2. Appeals

A person can appeal a Capital Gains Tax assessment to the Appeal Commissioners within 30 days of the notice of the assessment. The procedures relating to Income Tax appeals also apply for Capital Gains Tax.

3. Payment of the Tax - Self-Assessment

Capital Gains Tax is a Self-Assessment tax, the main features of which are outlined in Chapter 2. Individuals, Trusts and Companies in some instances (see Chapter 7, paragraph 1(a)) must: - for 2009 and following years of assessment:

- ♦ pay Capital Gains Tax as follows:
 - on gains accruing in the period 1 January to 30 November inclusive ("Initial Period") – pay on or before 15 December in that year,
 - on gains accruing in the period 1 December to 31 December inclusive ("Later Period") – pay on or before 31 January following the end of the year of assessment.
- ♦ make a return of chargeable gains and allowable losses on or before 31 October in the year following the year of assessment in which the disposal occurred,

If the payment is late or inadequate, interest charges may arise. If the return is not made on time, a surcharge will be payable (see Chapter 2, paragraph 4).

Different due dates were in place for disposals prior to 2009, please see Chapter 1 paragraph 11 for the situation before 2009.

Chapter 10

Obligation on persons acquiring certain assets to deduct tax

1. General

Where the consideration for the disposal of certain assets (see paragraph 2 below) exceeds €500,000 the person acquiring the asset must deduct 15% of the payment and remit it to the Collector-General within 30 days. This deduction is not required if the vendor produces a clearance certificate **Form CG50A**, or, in the case of newly constructed houses, one of the certificates mentioned in paragraph 4 below.

The obligation to deduct tax does not apply where the vendor is a body specified in Schedule 15 Taxes Consolidation Act 1997. Consequently, those bodies are not required to obtain a clearance certificate.

2. Relevant assets

The following are the assets which fall within this provision:

- (a) land (including buildings) in the State
- (b) minerals in the State or any rights, interests or other assets in relation to mining or minerals or the searching for minerals
- (c) exploration or exploitation rights in a designated area of the Irish Continental Shelf
- (d) unquoted shares deriving their value or the greater part of their value directly or indirectly from assets in (a), (b) or (c)
- (e) unquoted shares received in exchange for shares in (d) where the provisions of Section 584 TCA 1997 apply to the exchange by virtue of that, or another, Section
- (f) goodwill of a trade carried on in the State.

In addition, the provisions also apply to certain transactions which do not involve the purchaser acquiring an asset (for example, the redemption of loan notes by the issuing company involves the disposal, but not the acquisition, of assets). In such circumstances the person paying the capital sum is deemed to have acquired the asset for a consideration equal to the capital sum. Capital sums made under insurance policies are specifically excluded from this provision.

3. Clearance Certificate - Form CG50A

The person making the disposal may apply to their local Revenue office for a clearance certificate. The application should be made on **Form CG50** which is available on Revenue's website www.revenue.ie or from Revenue's Forms and Leaflets Service by phoning LoCall 1890 306 706. Applications may be made by the vendor's agent. An application by an agent must include the vendor's name and address and, where the vendor is resident in the State, his/her Personal and Public Service (PPS) number. The certificate will issue if any of the following conditions is satisfied:

- (a) the person making the disposal is resident in the State, **or**
- (b) no Capital Gains Tax is payable in respect of the disposal, **or**
- (c) the Capital Gains Tax chargeable in respect of the disposal (and any previous disposal) of the asset has been paid.

If the vendor does not have sufficient funds to pay the tax at (c) in advance of the disposal Revenue will, in certain circumstances, accept a written undertaking from the vendor's solicitor (see Tax Briefing 62 for further information).

The Clearance is given on a **Form CG50A**.

4. Clearance Certificates - “New Houses”

As an alternative to obtaining a **Form CG50A** (see paragraph 3) where the vendor, e.g. builder, is disposing of land on which a new house has been built or is in the course of being built, production of any one of the following certificates will exempt the person paying the consideration from deducting the 15%:

- ♦ current certificate of authorisation issued to the vendor under Section 531 Taxes Consolidation Act 1997, **or**
- ♦ current tax clearance certificates issued to the vendor under Sections 1094 and 1095 Taxes Consolidation Act 1997, **or**
- ♦ current tax clearance certificate issued to the vendor for the particular purposes of Section 980 Taxes Consolidation Act 1997.

For the purposes of this chapter:

“house” includes any building/part of a building used or suitable for use as a dwelling, and any out yard, garden or other land pertaining to or usually enjoyed with that building/part of a building and

“new house” means a house which has been developed/is being developed by or on behalf of the vendor but which has not been used at any time before its disposal.

5. Obligation to deduct and remit tax

If the vendor does not produce the appropriate certificate the purchaser must deduct 15% of the consideration as capital gains tax and transmit the amount deducted to the Collector-General within 30 days. The vendor is entitled to relief for the tax deducted (see Tax Briefing 56 for advice on how to obtain this relief).

6. Procedure where consideration is in a non-monetary form

If the consideration is such that the 15% deduction cannot be made (e.g. where one asset is exchanged for another, or shares are issued as consideration), and the person acquiring the asset does not have a clearance certificate that person is obliged (within seven days of the acquisition) to give notice to the Revenue Commissioners containing details of the acquisition and remit to the Revenue Commissioners an amount equal to 15% of the market value of the consideration.

Chapter 11

Examples

This Chapter contains a number of worked examples for your assistance. All amounts are in Euro. The situations covered are as follows:

- Example 1: Sale of investment property
- Example 2: Sale of development land
- Example 3: Sale of principal private residence which is development land
- Example 4: Sale of part of garden attaching to main residence
- Example 5: Principal Private Residence relief where owner has not spent all of period of ownership in dwelling house
- Example 6: Sale of shares including FIFO rule
- Example 7: Sale of shares including Bonus Issue of shares
- Example 8: Sale of shares including Rights Issue of shares
- Example 9: Sale of shares including Rights Issue/Shares of a different class
- Example 10: Purchase and sale of an asset in Foreign Currency

1. Sale of investment property

In May 2011 a married couple or civil partners sold a house for €250,000. The cost of sale amounted to €7,000. They bought the house in June 1973 for €5,600. The market value of the house at 6 April 1974 was €6,000. The couple had added an extension costing €4,000 to the house in March 1980.

The house was not their Principal Private Residence and it was not Development Land (see Chapter 4). The couple had other chargeable gains in the tax year 2009 which used up their respective annual capital gains exemption*.

Calculation of gain 2011:

Disposal Consideration	€	
		250,000
Less: Incidental Costs		<u>7,000</u>
Net Disposal Consideration		243,000

Deduct:

Value on 6 April 1974 adjusted for inflation

i.e. €6,000 x 7.258 =	45,168	
1980 Enhancement Expenditure, adjusted for inflation: i.e. €4,000 x 3.742 =	<u>14,968</u>	<u>60,136</u>

Chargeable Gain 182,864

* (Personal Exemption used up on other gains)

Tax due, on or before, 15 December 2011 @ 25% €45,716.00

Examples (continued)

2. Sale of development land (see Chapter 4)

A holding of ten acres of land, which was acquired in 1968, was sold in June 2009 for commercial development. The sale price was €300,000 and the costs of disposal were €10,000.

At 6 April 1974 its market value was €50,000 and its 'current use value' at that date was €8,000. The vendor is single and had no other chargeable gains in 2009. The chargeable gain is computed as follows -

Calculation of gain 2009:

	€
Disposal Consideration	300,000
Less: Incidental Costs	<u>10,000</u>
Net Disposal Consideration	290,000

Deduct:

Value on 6 April 1974:-

(i) Current use value, adjusted by indexation i.e. €8,000 x 7.528 =	60,224	
(ii) Development value (market value less current use value) i.e. €50,000 - €8,000 =	<u>42,000</u>	<u>102,224</u>
Capital Gain		187,776
Less Personal Exemption		<u>1,270</u>
Chargeable Gain		186,506
Tax due, on or before, 15 December 2009 @ 25%		€46,626.50

Examples (continued)

3. Sale of a principal private residence which is development land (see Chapter 4)

In May 1979 a couple bought a house, their Principal Private Residence, for a total of €54,000 including costs of acquisition. Subsequently, the property acquired commercial development potential and they sell it for €400,000 in December 2010 when its 'current use value' as a private residence is €300,000. The expenses of sale were €10,000. The couple had other chargeable gains in 2010 which absorbed their respective Capital Gains Tax annual exemptions*. The capital gain on the above disposal is as follows -

Calculation of gain 2010:

		Notional Gain (Treat as if the house had been sold for €300,000 as a private residence)	
	€		€
Disposal Consideration	400,000	(Current use value)	300,000
		$(10,000 \times \frac{300,000}{400,000})$	
Less Incidental Costs	<u>10,000</u>	(Proportion of expenses of sale)	<u>7,500</u>
Net Disposal Consideration	390,000		292,500 (a)
Deduct:			
Cost adjusted for inflation:			
€54,000 x 3.742	<u>202,068</u>	(adjusted cost)	<u>202,068</u> (b)
Capital Gain	187,932	[(a) - (b)] = #PPR Relief =	90,432
Principal Private Residence (PPR) relief #	<u>90,432</u>		
Chargeable Gain	97,500		

* (Personal Exemptions used up on other gains)

Tax due, on or before, 31 January 2011 @ 25 % €24,375.00

Examples (continued)

4. Sale of part of garden attaching to main residence (see Chapter 4)

In May 2009 an individual sells part of his/her garden for €100,000. The costs of sale are €5,000. In addition, valuation costs of €500 are incurred for the purposes of computing the capital gain. The non-development value of the site is €5,000. The property was originally purchased on 1 May 1996 for €250,000. Legal fees were €4,000 and Stamp Duty was €6,000. The market value of the property after the sale of the site is €900,000. The vendor had other chargeable gains in 2009 which used up her annual exemption. The capital gains tax (CGT) payable is calculated as follows -

Step 1: Calculate the gain on the actual proceeds.

	€
Sale proceeds:	100,000
Less costs of sale & valuation:	<u>5,500</u>
Net sale proceeds:	94,500
Less allowable costs of acquisition: (Note 1)	<u>32,526</u>
Gain:	61,974

Step 2: Calculate a notional gain, as if the site was sold for its non-development value. This gain is exempt under the main residence relief provisions.

Notional proceeds:	5,000
Less costs of sale & valuation: (Note 2)	<u>750</u>
Net sale proceeds:	4,250
Allowable costs of acquisition: (Note 3)	<u>1,796</u>
Gain:	2,454

Step 3: Deduct the gain at Step 2 from that at Step 1. This is the chargeable gain.

Total gain:	61,974
Less notional gain:	<u>2,454</u>
Chargeable gain:	59,520

Step 4: Calculate the CGT payable.

Chargeable gain:	59,520
Tax due, on or before, 15 December 2009 @ 25%	14,880.00

Note 1: The allowable costs of acquisition, i.e. the aggregate of the purchase price, legal fees and Stamp Duty, are apportioned, using the part disposal formula *, between what is being sold & retained.

$$\text{Allowable costs of acquisition: } 260,000 \times \frac{100,000}{100,000 + 900,000} = 26,000$$

* $\frac{A}{A+B}$, where A is the sale price of the asset and B is the market value of the part retained.

Expenditure incurred on or before 31/12/2002 may be adjusted for indexation by reference to a multiplier based on the All Items Consumer Price Index. The multiplier for an asset sold in 2009 on expenditure incurred in the 12 months ended 5 April 1997 is 1.251.

The allowable costs of acquisition, after adjustment for indexation are €32,526, i.e. €26,000 x 1.251.

Note 2: The costs of sale are apportioned between the actual and notional sale proceeds -

$$5,000 \times \frac{5,000}{100,000} = 250$$

The valuation costs are allowable in full as they were incurred for the purpose of computing the gain on the sale.

Note 3: The part disposal formula (see Note 1) is now applied to the non-development value of the site.

$$260,000 \times \frac{5,000}{5,000 + 900,000} = 1,436$$

The allowable costs of acquisition, after adjustment for inflation (see Note 1), are €1,796, i.e. €1,436 x 1.251.

Examples (continued)

5. Principal Private Residence relief where owner has not spent all of period of ownership in dwelling house (see Chapter 5)

On 1 January 2000 an individual bought a house for €100,000, including costs. He/she immediately occupied it as his/her sole residence until 31 December 2005 when he/she went to live in a new apartment. The house was then rented, the owner paying income tax as appropriate on the rent received.

On 30 September 2009 the house was sold for €300,000. Principal Private Residence (PPR) relief can be claimed for the period of time the owner lived in the house. As he/she has occupied the house as his main residence, the final twelve months of ownership is also treated as a period of occupancy. Relief is calculated on a *pro rata* basis.

Calculation of gain 2009

Disposal Consideration		€ 300,000
Less incidental costs of sale		<u>10,000</u>
Consideration after costs		290,000
Cost, adjusted for inflation:	100,000 x 1.193 =	<u>119,300</u>
Capital Gain:		170,700

Calculate PPR relief:

Period of ownership: 117 months

Period of time of occupation (including last twelve months of ownership) 84 months.

$$170,700 \times \frac{84}{117} = 122,554$$

€122,554 of the gross gain is relieved due to PPR relief.

Capital Gain amended for PPR relief - 170,700 - 122,554 =	48,146
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Less Personal Exemption	<u>1,270</u>
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Chargeable Gain	€46,876
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Tax due, on or before 15 December 2009 @ 25%	€11,719
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Examples (continued)

6. Sale of shares including FIFO rule (see Chapter 8)

In July 1993 an individual (single) bought 2,000 ordinary shares in a quoted company for €2,000 (i.e. €1.00 per share)

In May 2001 he/she bought a further 3,000 ordinary shares in the same company for €4,500 (i.e. €1.50 per share)

In August 2005, 2,500 shares were sold and the proceeds (after expenses of sale) amounted to €6,500. He/she had no other chargeable gain in the tax year 2005.

In May 2009 he/she sold the remaining 2,500 shares and the proceeds (after expenses of sale) amounted to €7,500. He/she had no other chargeable gains in the tax year 2009.

Calculation of gain:

	2005		2009
	€		€
Disposal Consideration:	6,500		7,500
Deduct:			
2000 shares *			
Cost in 1993/94 adjusted for inflation i.e. 2,000 x 1.270 =	2,540		
500 shares		2,500 shares	
Cost in 2001		Cost in 2001	
adjusted for inflation		adjusted for inflation	
i.e 500 @ €1.50 per share		i.e. 2,500 @ €1.50 per share	
= €750 x 1.087 =	<u>815</u>	= €3,750 x 1.087 =	<u>4,076</u>
	<u>3,355</u>		
Capital Gain	3,145		3,424
Less Personal Exemption	<u>1,270</u>		<u>1,270</u>
Chargeable Gain	<u>1,875</u>		<u>2,154</u>
Tax due @ 20%**	€375.00	Tax due @ 25%**	€538.50

* For the purpose of identifying what shares are sold, a "First in - First out" rule applies. This means that the shares acquired in July 1993 are all deemed to have been sold in 2005 in this example - see Chapter 8, paragraph 2.

** The due date for the 2009 disposal is 15 December 2009 the rate of tax is 25%. The due date for the 2006 disposal was 31 October, the tax rate was 20%.

Examples (continued)

7. Sale of shares including Bonus Issue of shares (see Chapter 8)

An individual acquired and sold shares as follows:

January 1993	Purchased 1,000 shares in X Ltd. at €2 per share
February 1994	Bonus Issue of one for five
July 1996	Bonus Issue of two for three
October 1998	Purchased further 500 shares in X Ltd. at €4 per share
August 2001	Bonus Issue of one for five
May 2009	Sold 2,500 shares for €12,500 (i.e. €5 per share)

The original shares and bonus shares are treated as the one holding and the original cost is spread over the entire holding.

	January 1993		October 1998	
	Number	Cost	Number	Cost
Shares Purchased	1,000	€2,000	500	€2,000
Bonus Issue Feb. 1994 [1:5]	<u>200</u>	-	-	-
	1,200	<u>€2,000</u>	-	-
Bonus Issue July 1996 [2:3]	<u>800</u>	-	-	-
	2,000	€2,000	500	€2,000
Bonus Issue Aug. 2001 [1:5]	<u>400</u>	-	100	-
	2,400	€2,000	600	€2,000
Disposal 2007 - FIFO rules	<u>2,400</u>	<u>€2,000</u>	<u>100</u>	<u>334</u> *
Shares retained after disposal (+ remaining cost)	-	-	500	€1,666

Calculation of gain 2009:

Disposal Consideration		€12,500
Deduct:		
2,400 shares (all deemed acquired in Jan.'93); €2,000 x 1.356 =		2,712
100 shares (acquired in Oct. 1998); €2,000 x $\frac{100}{600}$ =	€334* x	1.212 =
		<u>405</u> <u>3,117</u>
Capital Gain		9,383
Less Personal Exemption		<u>1,270</u>
Chargeable Gain		8,113
Tax due, on or before, 15 December 2009 @ 25%		€2,028.25

Examples (continued)

8. Sale of shares including Rights Issue of shares (see Chapter 8)

An individual acquired and sold shares as follows:

January 1996	Acquired 100 shares in X Ltd. at €5 per share
February 2000	Rights Issue of one for two at cost of €4 per share
June 2009	Sold 90 shares at €25 per share

As for bonus shares the original shares and the rights shares are treated as the one holding and the original cost is spread over the entire holding. However, unlike bonus issue the shareholder will pay to take up the additional shares. This outlay is treated as "Enhancement Expenditure" (EE) and is also spread over the entire holding. This individual had other chargeable gains in 2009 which used up her annual exemption.**

	Number	Original Cost (Jan '96)	EE (Feb.'00)
Purchase (Jan 1996)	100	€500	-
Rights Issue; February 2000 [1:2]	<u>50</u>	<u>-</u>	<u>€200</u>
	150	€500	€200
Disposal 2009	<u>90</u>	<u>€300 *</u>	<u>€120 #</u>
Shares retained after disposal + remaining cost	60	€200	€80

Calculation of gain 2009:

Disposal Consideration €2,250

Deduct:

(1) Original cost (Jan.'96)

$$\frac{90}{150} \times €500 = 300^* \times 1.277 = 383$$

(2) Enhancement Expenditure (Feb.'00)

$$\frac{90}{150} \times €200 = 120^\# \times 1.193 = 143 \quad \underline{526}$$

Chargeable Gain 1,724

** (Annual Exemption used up by other gains)

Chargeable Gain

Tax due, on or before, 15 December 2009 @ 25% €431.00

Examples (continued)

9. Sale of shares including Rights Issue/Shares of a different class (see Chapter 8)

An individual acquired and sold shares as follows:

January 1996	Acquired 1,000 shares in X Ltd. at €5 per share (X Ltd. is a 'quoted' company)
February 2000	Rights Issue of one new Preference for every two ordinary held at cost of €4 per share (market value of the ordinary shares at the time was €20 per share while the market value of the Preference shares was €10 per share.)

- ♦ all the shares (Ord. and Pref.) are deemed to have been acquired in Jan. 1996
- ♦ the total allowable cost of the shares is €5,000 (Jan.'96) + €2,000 enhancement expenditure (Feb.'00)
- ♦ the allowable cost has to be divided between the Ordinary and Preference shares having regard to the respective values of the shares at the time the new shares were acquired as follows:

1,000 Ordinary shares

- Original cost	€5,000 x $\frac{€20,000}{€25,000}$ = €4,000	$\frac{\text{(m.v. of Ord. at Feb.'00)}}{\text{(m.v. of Ord. + Pref. at Feb.'00)}}$
- Enhancement expenditure	€2,000 x $\frac{€20,000}{€25,000}$ = €1,600	

500 Preference shares

- Original cost	€5,000 x $\frac{€5,000}{€25,000}$ = €1,000	$\frac{\text{(m.v. of Pref. at Feb.'00)}}{\text{(m.v. of Pref. + Ord. at Feb.'00)}}$
- Enhancement expenditure	€2,000 x $\frac{€5,000}{€25,000}$ = €400	

Calculation of gain 2009:

Disposal Consideration of 400 Preference shares €6,000

Deduct:

(1) Original cost (Jan.'96)

$$\frac{400}{500} \times €1,000 = €800 \times 1.277 = 1022$$

(2) Enhancement Expenditure (Feb.'00)

$$\frac{400}{500} \times €400 = €320 \times 1.193 = 382 \quad 1,404$$

Capital Gain 4,596

Less Personal Exemption 1,270

Chargeable Gain 3,326

Tax due, on or before, 15 December 2009 @ 25% €831.50

Examples (continued)

10. Purchase and sale of an asset using Foreign Currency (see Chapter 3)

A shareholding in U.K. Ltd. of 12,000 shares was acquired on 6 July 1995 at a cost of stg£24,000, i.e. stg£2 per share. In February 1997 the beneficial holder of these shares moved permanently to Ireland.

On 19 May 2009 the holding of 12,000 shares was sold and the proceeds (after expenses of sale) amounted to stg£50,755.

Step 1: Convert cost of acquisition

$$\text{stg£}24,000 \div 0.9629 = \text{IR£}24,925$$

[Conversion rate, 0.9629, daily rate at 6 July 1995]

Step 2: Convert Irish equivalent cost to Euro

$$\text{IR£}24,925 \div 0.787564 = \text{€}31,648$$

[Conversion rate €1 = 0.787564]

Step 3: Convert Disposal Consideration to Euro

$$\text{Stg£}50,755 \div 0.87940 = \text{€}57,715$$

[Conversion rate, 0.87940, daily rate at 19 May 2009]

Calculation of Gain 2009:

Disposal Consideration	€ 57,715
Deduct:	
Cost of acquisition, indexed for inflation;	
$\text{€}31,648 \times 1.277 =$	<u>40,414</u>
Capital Gain	17,301
Less Personal Exemption	<u>1,270</u>
Chargeable Gain	16,031
Tax due, on or before 15 December 2009 @ 25 %	€4,007.75

Appendix 1

Table of Inflation/Indexation Multipliers

See reference in Chapter 3, paragraph 4

Year Expenditure Incurred	Multiplier for disposals in year ended									
	5 April 1996	5 April 1997	5 April 1998	5 April 1999	5 April 2000	5 April 2001	Short Y/e 31 Dec 2001	31 Dec 2002	31 Dec 2003	31 Dec 2004 et.seq.
1974/75	5.899	6.017	6.112	6.215	6.313	6.582	6.930	7.180	7.528	7.528
1975/76	4.764	4.860	4.936	5.020	5.099	5.316	5.597	5.799	6.080	6.080
1976/77	4.104	4.187	4.253	4.325	4.393	4.580	4.822	4.996	5.238	5.238
1977/78	3.518	3.589	3.646	3.707	3.766	3.926	4.133	4.283	4.490	4.490
1978/79	3.250	3.316	3.368	3.425	3.479	3.627	3.819	3.956	4.148	4.148
1979/80	2.933	2.992	3.039	3.090	3.139	3.272	3.445	3.570	3.742	3.742
1980/81	2.539	2.590	2.631	2.675	2.718	2.833	2.983	3.091	3.240	3.240
1981/82	2.099	2.141	2.174	2.211	2.246	2.342	2.465	2.554	2.678	2.678
1982/83	1.765	1.801	1.829	1.860	1.890	1.970	2.074	2.149	2.253	2.253
1983/84	1.570	1.601	1.627	1.654	1.680	1.752	1.844	1.911	2.003	2.003
1984/85	1.425	1.454	1.477	1.502	1.525	1.590	1.674	1.735	1.819	1.819
1985/86	1.342	1.369	1.390	1.414	1.436	1.497	1.577	1.633	1.713	1.713
1986/87	1.283	1.309	1.330	1.352	1.373	1.432	1.507	1.562	1.637	1.637
1987/88	1.241	1.266	1.285	1.307	1.328	1.384	1.457	1.510	1.583	1.583
1988/89	1.217	1.242	1.261	1.282	1.303	1.358	1.430	1.481	1.553	1.553
1989/90	1.178	1.202	1.221	1.241	1.261	1.314	1.384	1.434	1.503	1.503
1990/91	1.130	1.153	1.171	1.191	1.210	1.261	1.328	1.376	1.442	1.442
1991/92	1.102	1.124	1.142	1.161	1.179	1.229	1.294	1.341	1.406	1.406
1992/93	1.063	1.084	1.101	1.120	1.138	1.186	1.249	1.294	1.356	1.356
1993/94	1.043	1.064	1.081	1.099	1.117	1.164	1.226	1.270	1.331	1.331
1994/95	1.026	1.046	1.063	1.081	1.098	1.144	1.205	1.248	1.309	1.309
1995/96	-	1.021	1.037	1.054	1.071	1.116	1.175	1.218	1.277	1.277
1996/97	-	-	1.016	1.033	1.050	1.094	1.152	1.194	1.251	1.251
1997/98	-	-	-	1.017	1.033	1.077	1.134	1.175	1.232	1.232
1998/99	-	-	-	-	1.016	1.059	1.115	1.156	1.212	1.212
1999/00	-	-	-	-	-	1.043	1.098	1.138	1.193	1.193
2000/01	-	-	-	-	-	-	1.053	1.091	1.144	1.144
2001	-	-	-	-	-	-	-	1.037	1.087	1.087
2002	-	-	-	-	-	-	-	-	1.049	1.049
2003 et. seq.	-	-	-	-	-	-	-	-	-	1.000

Note: In the “Year Expenditure Incurred” column, for all years to 2000/2001 inclusive, a “year” means a 12 month period commencing on 6 April and ending on the following 5 April. The “Short year” 2001 covers the period 6/4/2001 to 31/12/2001. With effect from 1/1/2002 a “year” is the calendar year, i.e. 2002 refers to the year ended 31 December 2002. Indexation relief will only apply for the period of ownership of the asset up to 31 December 2002 for any disposals made on or after 1 January 2003.

Appendix 2

Capital Gains Tax Computation Sheets for Self-Assessment

The following pages are a guide to assist you in computing the amount of your chargeable gain or allowable loss on **each** disposal and will help you to calculate the amount of Capital Gains Tax due, if any.

It will be necessary for you to compute your chargeable gain or allowable loss for each individual disposal that takes place during the year of assessment. To assist you in this you may wish to photocopy the computation sheets on pages 40 and 41 of this Guide.

The amount of your chargeable gain or allowable loss must be entered on the appropriate annual tax return form. You should retain your computation sheets and any supporting documentation in case they are required by Revenue to validate your submission.

These computation sheets are not intended to cover every type of disposal and in any case of doubt or difficulty you should contact your tax advisor or your Revenue office.

Professional Valuation

A certificate of valuation should be obtained where market value or current use value has to be used in a computation. Again, this should be retained by you in case it is required by Revenue to validate your submission.

Computation Sheets for Self-Assessment

Guidance notes to assist you on the completion of the computation sheets are provided in Appendix 3 on pages 42 - 44 inclusive.

All references to “development land” throughout pages 39 - 44 inclusive should be taken to include shares deriving their value or greater part of their value from such land.

Computation sheet for assets other than development land is on page 40.

Computation sheet for assets, which are development land, is on page 41. Please note that this sheet only covers disposals of land with development value or shares deriving the greater part of their value from such land, as defined in Section 648 Taxes Consolidation Act 1997. The development land provisions do not apply to an individual where his/her total receipts from such disposals in the year **did not exceed €19,050**.

Any claim for principal private residence relief, retirement relief or other reliefs should be entered in the appropriate section on your return form.

Computation sheet for Disposal of Assets other than Development Land

Tax year end 31/12/20__

Note

- 1. Date of Disposal / /
- 2. Description of asset
- 3. Date of Acquisition / /

Computation

- 4. Disposal Consideration
- 5. Less Incidental Costs of Disposal (if any)
- 6. Net Disposal Consideration (4 - 5)

Deduct Allowable Costs

- 7&8. Cost of Acquisition € x Multiplier () =
- 9&10. Enhancement Expenditure (i) € x Multiplier () =
- (ii) € x Multiplier () =

11. Total indexed cost ↳

12. Capital Gain/(Loss) after indexation (6 - 11)

13. Actual Monetary Gain or (Loss) [use brackets () to denote loss]

14&15. **Chargeable Gain**

14&15. **(Allowable loss)** ()

If there are unused losses from previous years insert the amount here ()

Calculation of Capital Gains Tax Payable

16. Total Chargeable Gains net of Allowable Losses

17. Less: Personal Exemption [€1,270 - if due]

Net Chargeable Gains

Chargeable @ 25% Tax Due =

Chargeable @ 40% Tax Due =

18. Foreign Life Policies @ 40% Tax Due =

Remember the Capital Gains Tax due date for disposals between:

- ◆ 1 January and 30 November (**initial period**) is 15 December in that year
- ◆ 1 December and 31 December (**later period**) is 31 January in the following year.

Computation sheet for Disposal of Development Land

Tax year end 31/12/20__

Note

- 1. Date of Disposal / /
- 2. Description of asset
- 3. Date of Acquisition / /

Computation

- 4. Disposal Consideration
- 5. Less Incidental Costs of Disposal (if any)
- 6. Net Disposal Consideration (4 - 5)

Deduct Allowable Costs

- 7. Cost of Acquisitions (enter in box)
- 7A&8. Current Use Value € x Multiplier () =
- 8A. Cost (at 7) less Current Use Value (no indexation) =
- 9&10. Enhancement Expenditure (i) - no indexation =
- (ii) - no indexation =
- 11. Total indexed Costs ↳
- 12. Capital Gain/(Loss) after indexation (6 - 11)
- 13. Actual Monetary Gain or (Loss) [use brackets () to denote loss]
- 14&15. **Chargeable Gain**
- 14&15. **(Allowable loss)** ()

If there are unused losses from previous years insert the amount here

()

Calculation of Capital Gains Tax Payable

- 16. Total Chargeable Gains net of Allowable Losses
- 17. Less: Personal Exemption [€1,270 - if due]
- Net Chargeable Gains
- Chargeable @ 25% Tax Due =
- Chargeable @ 40% Tax Due =
- 19. Windfall Gains Tax @ 80% Tax Due =

Remember the Capital Gains Tax due date for disposals between:

- ◆ 1 January and 30 November (**initial period**) is 15 December in that year
- ◆ 1 December and 31 December (**later period**) is 31 January in the following year.

Appendix 3

Guidance Notes on Completion of Computation Sheets

Note

1. Date of Disposal

Generally speaking this is the date the contract is made, not the completion date (see Chapter 1, paragraph 10).

2. Description of Asset

For example: agricultural land, development land, house, lease, shares, etc. State area, quantity, etc. as appropriate.

3. Date of Acquisition

Generally speaking this is the date the contract is made, not the completion date (see Chapter 1, paragraph 10).

4. Disposal Consideration

This is the value of the consideration received on disposal, e.g. the sale price in the case of sale at arm's length. If the disposal is not made by a bargain at arm's length then the consideration is equal to its market value at the time of disposal. Any disposal proceeds received in foreign currency must be converted to Irish currency by reference to the rate of exchange at the time of disposal.

5. Incidental Costs of Disposal

This is expenditure wholly and exclusively incurred by you for the purposes of the disposal, e.g. cost of valuing, advertising and legal expenses.

6. Net Disposal Consideration

This is the disposal consideration less the incidental costs of disposal.

7. Cost of Acquisition

- ◆ Incidental costs of acquisition such as legal fees and stamp duty are allowable as part of the cost.
- ◆ If the asset was acquired by way of an inheritance on a death, by way of a gift or on transfer from a trust, it is the market value at the date of death, gift or transfer that is to be used here.
- ◆ If the asset was acquired prior to 6 April 1974 the allowable cost to be entered here is the market value of the asset at 6 April 1974.
- ◆ In the case of a part disposal of an asset, only part of the original cost is allowed here and a computation showing how that part of the cost has been calculated should be attached.
- ◆ Special rules apply to the disposal of a lease with less than 50 years to run, so as to reduce the allowable cost of the lease by reference to the number of years for which it was held.
- ◆ Where the acquisition was made in foreign currency the costs of acquisition must be converted to Irish currency by reference to the rate of exchange at the time of acquisition.

7A. Current Use Value

This only applies on the disposal of development land. In the computation of gains on the disposal of development land only the current use value at date of acquisition, or at 6 April 1974 if acquired earlier, may be indexed for inflation.

8. Multiplier

The inflation/indexation multiplier for disposals in various tax years are set out in **Appendix 1**. The chart in **Appendix 1** contains, for ease of reference, details of the relevant inflation factors for the years of assessment 1995/96 et seq.

Note: (a) See 7A above re development land.

(b) For disposals made on or after 1 January 2003 indexation relief applies to expenditure incurred up to 31 December 2002.

8A. Cost Less Current Use Value

In the computation of the gain on the disposal of development land the cost or, if acquired earlier, the market value at 6 April 1974 less the current use value at that date, is allowed without indexation.

9. Enhancement Expenditure

This is the cost of additions to the asset, after the date of acquisition, which adds to the value of the asset and is reflected in the state of the asset at the date of sale. Examples would be landscaping, addition of a garage, conservatory. It does not include routine maintenance such as painting.

10. Multiplier

- ♦ The multiplier to be applied here must be by reference to the year in which the Enhancement Expenditure at 9 was incurred. See **Appendix 1** for the table.
- ♦ No indexation of Enhancement Expenditure is allowed for disposals of development land.

11. Total Indexed Cost

- ♦ This is the aggregate of the cost of acquisition and enhancement expenditure duly indexed for inflation where applicable.
- ♦ In the case of development land it is the current use value at 7A multiplied by the appropriate multiplier at 8, plus the allowable cost less current use value, at 8A, plus enhancement expenditure, if any, at 9.

12. Capital Gain (Loss) after indexation

Ordinarily the gain as calculated here is the chargeable gain to be entered on the return form but, in the case of an "indexed" loss or where deemed market value at 6 April 1974 has been used in the computation, the chargeable gain or allowable loss may require to be adjusted by reference to the actual monetary gain or loss. See notes 14 and 15.

13. Actual Monetary Gain or Loss

This is the actual gain or loss overall by reference to the original cost without any allowance for inflation.

14&15. Chargeable Gain or Allowable Loss

- (a) If there is a gain shown at 12 enter it at 14 also, unless:
- ♦ there is a monetary gain at 13 which is smaller, in which case enter the smaller figure, or
 - ♦ there is a monetary loss at 13, in which case treat the disposal as giving a “no gain/no loss” result.
- (b) If there is a loss shown at 12 enter it at 15 also, unless:
- ♦ there is a monetary loss at 13 which is smaller, in which case enter the smaller figure, or
 - ♦ there is monetary gain at 13, in which case treat the disposal as giving a “no gain/no loss” result.

16. Total Chargeable Gain

- ♦ This is the total chargeable gains from both development land and non-development land gains less any allowable losses.
- ♦ The allowable losses include losses (if any) brought forward as still unused from previous years. Note, however, that the only losses which may be set off against gains on development land are losses which have been incurred on disposals of other development land.

17. Personal Exemption

The first €1,270 of an individual's net gains is not chargeable. This personal exemption is not transferable between spouses or civil partners and applies to individuals only. If there is more than one disposal during the year and the personal exemption has been utilised in full in the first computation then no entry is required here. A non-resident individual is entitled to the personal exemption.

18. Foreign Life Policies

If you sold, made withdrawals from or received any cash or other benefits from a foreign life insurance policy as referred to in Chapter 6 Part 26 of the TCA 1997, you may have made a gain from the Foreign Life Policy to which the following rates of tax will apply:

- ♦ If the disposal was made on or after 8 April 2009 and details of the gain are **correctly** included in a return and the policy is not a Personal Portfolio Life policy within the meaning of Section 730BA(2) TCA 1997, the charge to **Income Tax** is at 28%.
- ♦ If the disposal was made on or after 1 January 2009 and before 8 April 2009 and details of the gain are **correctly** included in a return and the policy is not a Personal Portfolio Life policy within the meaning of Section 730BA(2) TCA 1997, the charge to **Income Tax** is at the **standard rate of income tax + 6%**.
- ♦ If the disposal was made on or after 1 January 2001 and before 1 January 2009 and details of the gain are **not correctly** included in a return, the charge to **Capital Gains Tax** will be the un-indexed **relevant gain** within the meaning of Section 594 TCA 1997, taxed at a **Capital Gains Tax rate of 40%**.

For information on chargeable gains and rates of charge for disposal periods prior to 1 January 2001 as well as the rates of income tax applying to gains on Personal Portfolio Life Policies within the meaning of Section 730BA(2) TCA 1997, you should contact your Revenue office.

19. Windfall Gains Tax

The 80% rate is charged on the amount by which the land increased in value as a result of the “relevant planning decision”. The remainder of the gain will be taxed at the normal 25% rate (see Chapter 4, paragraph 6).

Appendix 4

List of Revenue Offices and Other Information Sources

A 'Contact Locator' on Revenue's website www.revenue.ie enables customers to speedily ascertain appropriate Revenue contact details applicable to themselves. These include telephone number, e-mail and postal address, fax number and the appropriate office for personal callers. These details may be easily accessed by customers who are only required to key in their PPS Number or Company Tax Reference Number.

Revenue Regions & District Offices	Address	Telephone
Dublin Region		
City Centre (Dublin city postal areas 1 & 2)	9/15 Upper O'Connell Street, Dublin 1	01 - 86 55 000
South City (Dublin City south of the Liffey excluding postal area 2)	85-93 Lower Mount Street, Dublin 2	01 - 64 74 000
North City (Dublin City north of the Liffey excluding postal area 1)	9/15 Upper O'Connell Street, Dublin 1	01 - 86 55 000
South County (Local Authority area)	Plaza Complex, Belgard Road, Tallaght, Dublin 24	01 - 64 70 700
Fingal (Local Authority area)	Block D, Ashtown Gate, Navan Road, Dublin 15	1890 678 456
Dun Laoghaire/Rathdown (Local Authority area)	Lansdowne House, Lansdowne Road, Dublin 4	01 - 63 29 400
Central Revenue Information Office	Cathedral Street, Off Upr. O'Connell Street, Dublin 1	Personal callers only
Tallaght Revenue Information Office	Level 2, The Square, Tallaght, Dublin 24	Personal callers only
Dublin Regional PAYE LoCall Number for Employees 1890 333 425		
South West Region		
Cork East including Cork County East, City North & City Centre	Government Offices, Sullivan's Quay, Cork	021 - 43 25 000
Cork South West including Cork County South West, City South & City East	Government Offices, Sullivan's Quay, Cork	021 - 43 25 000
Cork North West including Cork County North West & City West	Government Offices, Sullivan's Quay, Cork	021 - 43 25 000
Limerick	River House, Charlotte's Quay, Limerick	061 - 21 27 00
Clare	Government Offices, Kilrush Road, Ennis, Co. Clare	065 - 68 49 000
Kerry	Government Offices, Spa Road, Tralee, Co. Kerry	066 - 71 61 000
South West Regional PAYE LoCall Number for Employees 1890 222 425		
Border Midlands West Region		
Galway County	Geata na Cathrach, Fairgreen, Galway	091 - 5477000
Galway/Roscommon (Galway City and Co. Roscommon)	Geata na Cathrach, Fairgreen, Galway	091 - 5477000
Mayo	Michael Davitt House, Castlebar, Co. Mayo	094 - 90 37 000
Sligo (including Counties Sligo, Leitrim and Longford)	Government Offices, Cranmore Road, Sligo	071 - 91 48 600
Donegal	Government Offices, High Road, Letterkenny, Co. Donegal	074 - 91 69 400
Westmeath/Offaly	Government Offices, Pearse Street, Athlone, Co. Westmeath	090 - 64 21 800
Louth	Gov. Offices, Millennium Centre, Dundalk, Co. Louth	042 - 93 53 700
Cavan/Monaghan	Gov. Offices, Millennium Centre, Dundalk, Co. Louth	042 - 93 53 700
Border Midlands West Regional PAYE LoCall Number for Employees 1890 777 425		
East South East Region		
Tipperary (excluding Clonmel area)	Government Offices, Stradavoher, Thurles, Co. Tipperary	0504 - 59 500
Kilkenny (including Counties Carlow and Laois but excluding South Kilkenny)	Government Offices, Hebron Road, Kilkenny	056 - 77 60 700
Waterford (including Clonmel area and South Kilkenny)	Government Offices, The Glen, Waterford	051 - 86 21 00
Wexford	Government Offices, Anne Street, Wexford	053 - 91 49 300
Kildare	Athy Business Campus, Castlecomer Road, Athy, Co. Kildare	059 - 86 43 200
Meath	Abbey Buildings, Abbey Road, Navan, Co. Meath	046 - 90 33 600
Wicklow	4 Claremount Road, Sandymount, Dublin 4	01 - 63 16 500
East & South East Regional PAYE LoCall Number for Employees 1890 444 425		
To contact Revenue from outside the Republic of Ireland phone + 353-1-86 55 000		

Other Revenue Information Sources	Address	Telephone No	E-mail
Revenue On-Line Service (ROS)			
ROS	www.revenue.ie	LoCall 1890 201 106 or + 353-1-67 44 421	roshelp@revenue.ie
Revenue's Forms & Leaflets Service			
Forms & Leaflets	24-hour Telephone Service	LoCall 1890 306 706 or + 353-1-702 30 50	custform@revenue.ie
Collector-General's Division			
Collector-General	Sarsfield House, Francis Street, Limerick	LoCall 1890 203 070	cg@revenue.ie
To contact the Collector-General's Division from outside the Republic of Ireland phone + 353-1-61 48 80 00			

Every care has been taken to ensure accuracy in the compilation of this list of contact numbers. However, some information is liable to change after publication. An up-to-date listing of all Revenue offices, contact numbers and e-mail addresses is available on Revenue's website www.revenue.ie

LoCall rates

Please note that the rates charged for the use of 1890 (LoCall) numbers may vary among different service providers.

Other Information Sources

The following information sources are available on the Tax Practitioners section of Revenue's website www.revenue.ie

- ◆ Tax Briefing - a bulletin for Tax Practitioners
- ◆ Legislation - Taxes Consolidation Act 1997 and Notes for Guidance
- ◆ Tax Instructions - Income Tax, Corporation Tax & Capital Gains Tax Manual.

If you are a person with a disability and require this leaflet in an alternative format the Revenue Access Officer can be contacted at accessofficer@revenue.ie

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e.g. C3P1 = Chapter 3, Paragraph 1.

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This Guide is intended to describe the subject in general terms. As such, it does not attempt to cover every issue which may arise in relation to the subject. It does not purport to be a legal interpretation of the statutory provisions and consequently, responsibility cannot be accepted for any liability incurred or loss suffered as a result of relying on any matter published herein.

Revenue Commissioners

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