

[19.1.3] Disposal of assets (S.534)

- 3.1** In general there must be an acquisition and a disposal in the form of positive acts within the natural meaning of these words (e.g., purchase, sale, gift, exchange, etc.), except where otherwise provided. The creation of an asset (e.g., the creation of goodwill by starting and building up a business) is an acquisition and the loss of an asset (e.g., by its destruction) is a disposal.

There is, therefore, an acquisition if the asset "comes to be owned", and apart from a realisation on natural disposal there are other occasions on which there is a deemed disposal e.g., where any capital sum is received in respect of the asset by way of compensation for damage, depreciation, destruction or forfeiture, or for surrender of rights or for use or exploitation. An allowable loss may arise if an asset disappears or becomes worthless. In general, it can be said that, for capital gains tax, there is a chargeable occasion whenever a capital sum is received where the receipt can be related to the ownership of an asset or to an interest or right in or over an asset, except where the transaction is specifically exempted.

- 3.2** Insurance policies including capital redemption policies (i.e., policies other than life policies under which, in return for one or more premiums paid by the insured, a capital sum is to become payable in the future) are not in themselves chargeable assets. However, where a person receives a payment under a policy covering the risk of damage or loss of an asset, that payment should be regarded as a capital sum "derived from" the insured asset within the meaning of **Section 535(2)**.
- 3.3** As regards gains arising from the assignment or maturity of policies of life assurance or contracts for deferred annuities, see **Tax Instruction 19.5.1**.
- 3.4** Chargeable gains (or allowable losses) accrue on the disposal of assets.

Certain occasions are specifically defined as disposals (see **Tax Instruction 19.1.6 Par. 1**); others may be regarded as "natural" disposals (e.g. sales, gifts, exchanges, etc.); and there is a third category consisting of less obvious or deemed disposals (e.g. termination of a life interest other than by the death of the life tenant). Disposals are not, however, always the occasion for a charge to capital gains tax (e.g. transfers between husband and wife).

- 3.5** As stated in **Tax Briefing 41**, Revenue regard the partition of a joint tenancy or a tenancy in common as being a disposal for capital gains tax purposes. Each party concerned in the severance is disposing of a lesser interest in a part of the property concerned and is acquiring a larger interest in a divided part. The treatment of these matters is provided in *Sections 534 and 557 TCA 1997*.