

## **Part Disposal of Assets (S.534)**

### **Part 19-01-04**

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## Part Disposal of Assets (S.534)

### 4.1 Introduction

**Section 534** provides that, except where the context otherwise requires, any reference to disposal of an asset shall include a reference to the part disposal of an asset. (As regards the interpretation of "asset", see [Tax Instruction 19-02-14 Par. 3](#)). There is a part disposal whenever the owner of an asset disposes of anything less than the whole of what he owns, whether what he retains is a physical part of the asset or merely an interest in the whole or part of it. This applies in particular where, by the disposal, an asset is created out of the whole asset, i.e. where the asset disposed of did not exist separately before the disposal (e.g. a lease granted out of a freehold).

If the part disposal is a disposal of an interest for a limited period so that at the end of the period the person is able to dispose of the whole unencumbered asset, the allowable expenditure on final disposal is nevertheless only the residue after the apportionment of the first and any subsequent part disposals. If at any time between disposals there is any expenditure allowable under (b) of [Tax Instruction 19-02-10 Par. 1](#), that expenditure is added to the residue after the last previous disposal for the purposes of the next disposal.

The result is that the total of the chargeable gains over the whole period from the creation or acquisition to the final disposal of the last part of the asset is (subject to [Tax Instruction 19-02-14 Par.10](#)) the excess of the sum of the considerations for the successive part disposals over the total of the allowable expenditure.

Instructions on the computational rules for part disposals are set out in [Tax Instruction 19-02-14](#).

### 4.2 Part disposals and no gain/no loss provisions

The provisions for the apportionment of cost on a part disposal are to be operated before regard is had to the various provisions which secure that in certain circumstances no gain or loss is deemed to have arisen on a disposal. Those provisions are as follows:-

- (a) **Section 1028(5)** (husband and wife) - see [Tax Instruction 44-02-01 Par.5](#)
- (b) Any other provisions with similar effect e.g. **Section 536** (compensation and insurance money) - see [Tax Instruction 19-01-07 Par.2](#).

**Example**

X and Y are a husband and wife.

X has an asset which cost €400,000 and he transfers part of the asset to Y, the market value of that part at the time of transfer being €300,000. The remainder of the asset has a market value of €200,000.

The part disposal rules are applied on the basis that the part of the asset transferred to Y was disposed of at market value. The apportioned cost of the part transferred is then computed as follows:-

$$\begin{array}{r} \text{€300,000} \\ \hline \text{€400,000} \times \frac{\text{€300,000}}{\text{€300,000} + \text{€200,000}} = \text{€240,000} \end{array}$$

On the eventual disposal of the assets, X's gain will be computed by reference to a "cost" of €160,000 and Y's by reference to a "cost" of €240,000.