

[19.1.10] Disposals in cases of hire purchase and similar transactions (S.539)

10.1 In so far as hire purchase transactions are concerned, Capital Gains Tax situations should arise only very rarely. In the case of the vendor/financier such transactions will normally be reflected in profits chargeable to income tax or corporation tax, while in the case of the hirer the assets involved will usually be -

(a) wasting assets which are exempt (**Tax Instruction [19.2.16](#) Par. 2**), or

(b) wasting assets which have qualified for capital allowances (**Tax Instruction [19.2.17](#) Par. 1**).

In the rare case where Capital Gains Tax does arise, **Section 539 TCA 1997** provides that a hire purchase or other transaction (under which the use and enjoyment of an asset is obtained by a person for a period (the period of "hire"), at the end of which the property in the asset will or may pass to him or her) should be treated, with regard to both parties to the transaction, as if it were an outright sale at the beginning of the period of hire.

If for any reason the hire terminates without the property passing (e.g. by re-possession because of failure to pay the instalments), the charge should be adjusted (by discharge or repayment) in accordance with the particular circumstances of the case.

The 4-year time limit provided for in Section 865 TCA 1997 does not prevent Revenue from repaying an amount of tax arising from an adjustment of tax where a claim for such an adjustment is made within 4 years from the end of the chargeable period (within the meaning of section 321) in which the termination occurs – see Section 137 and Sch 6.1(g) FA 2008, which applies on and from 31 January 2008. The term “chargeable period” is defined in Section 321 TCA 1997 as meaning an accounting period of a company or a year of assessment.

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