

Time of disposal and acquisition (S.542)

Part 19-1-15

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Time of disposal and acquisition (Section 542)

15.1

- (a) In the case of a disposal of an asset by way of an unconditional contract, the time of disposal and acquisition is the time at which the contract is made and not, if different, the time the asset is conveyed.
- (b) In the case of a conditional contract the contract is not effective until the condition is satisfied. For capital gains tax purposes, the time of disposal in these circumstances is the date on which the condition is satisfied. For example, in the case of a chargeable asset which is the subject of an option, the date of disposal is the date on which the option is exercised. The option itself is of course disposed of on the date on which it was granted. Similarly, contracts where the disposal and acquisition is subject to obtaining planning permission or loan approval are conditional contracts. The time of disposal is the date the condition is satisfied, e.g. when loan approval is obtained rather than the date the contract is signed and not when the contract is closed.
- (c) In a case within (a) of **Tax Instruction [19.1.6 Paragraph 1](#)** the time at which a disposal takes place is the time of receipt of the capital sum;
- (d) In the case of a gift (including a gift in settlement), the time at which a disposal takes place is the time the property effectively passes (and, in particular, in the case of the gift of a chattel, when the chattel is delivered).

15.2

In the case of land disposed of to an authority with compulsory powers of acquisition where the disposal is not by contract, the time at which a disposal takes place is **the earliest of the following dates**:

- (a) the date upon which the amount of compensation is agreed,
- (b) failing agreement, the date upon which the amount of compensation is determined by the arbitration tribunal (the time of disposal remains unchanged even where the amount of compensation is varied on appeal) or
- (c) the date on which the authority enters on the land in pursuance of its compulsory purchase powers,

Section 542(1)(c), Taxes Consolidation Act 1997 is the relevant provision.

- 15.3** Where the disposal is under a compulsory purchase order for the purposes of road-building or widening and the person making the disposal is engaged in farming and, immediately before the disposal, the land was used for the purposes of farming, the capital gains tax liability will not arise until the year of assessment in which the compensation is received.

The appropriate rate of charge is, however, the rate in place at the time of disposal and not (if different) the rate in place at the time the compensation is received. See Paragraph 15.2 (above) regarding the **time of disposal**.

If, for example, the authority entered on land (before compensation was agreed) during the period when the 20% rate of CGT was in force, but compensation is received when the rate is 25%, it is the 20% rate that is applicable.

Rates of CGT are set out beneath –

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|---------------------------------------|-----|
| Disposals on or after 3 December 1997 | 20% |
| Disposals on or after 15 October 2008 | 22% |
| Disposals on or after 8 April 2009 | 25% |
| Disposals on or after 7 December 2011 | 30% |
| Disposals on or after 6 December 2012 | 33% |

Section 56 Finance Act 2010 substituted a new **section 542(1)(d)** of the **Taxes Consolidation Act 1997**. The effect of the new provision is that in the case of all disposals under a compulsory purchase order or threat of such an order made on or after 4 February 2010, the CGT liability will not arise until the year of assessment in which the compensation is received. However, the rate of CGT will be the rate in force when the disposal was made (**Paragraph 15.3** above).

The new provision also states that where the proceeds from a compulsory purchase order have not been received by the date of death of the individual whose land was compulsorily purchased, they are deemed to have been received immediately before that date.