

[19.7.2] Chattels Exemption (S.602 & 603)

- 2.1** A gain accruing on the disposal of tangible movable property (i.e., a chattel) which is a wasting asset (**Tax Instruction 19.2.16 Par. 2** et seq.) is not a chargeable gain. There is, however, no exemption for a wasting chattel disposed of for more than €2,540 where capital allowances were or could have been claimed (**Tax Instruction 19.2.17 Par. 1**).

The instructions in **Par. 2** to **6** apply to chattels which are not exempt as wasting assets.

- 2.2** Any gain realised on the disposal of a chattel is not chargeable if the consideration for the disposal without any deduction for expenses (i.e., the sale price or, in the case of a gift or any other situation where market value applies, the market value at the date of the disposal) does not exceed €2,540.

Example

In January, 1986, a person buys a piece of antique silver for €1,000. He sells it in January 2008 for €1,900. There is no chargeable gain because the sale price is less than €2,540.

- 2.3** Where the consideration for the disposal of a chattel exceeds €2,540, the amount of the tax chargeable is not to exceed one-half of the difference between the gross consideration and €2,540.

Example

If the article in the example in **Par. 2** is sold for €2,800, the chargeable gain subject to expenses is:-

Consideration	€2,800
cost 1,000 x 1.637 =	<u>€1637</u>
	€1163

but the tax payable is not to exceed €130 (i.e., half of €2,800 less €2,540).

- 2.4** Where a chargeable chattel is disposed of for less than €2,540, any loss on the disposal should be computed as if the consideration for the disposal had been €2,540.

Example

An article is bought for €3,100 and sold for €1,850. The allowable loss is computed as if the sale price were €2,540 and is therefore limited to €560 (plus expenses of sale).

- 2.5** In calculating the total of chargeable gains for the annual exemption (**Tax Instruction 19.7.1 Par. 1**), all disposals of exempt chattels are to be disregarded.

2.6 Section 602(5) contains provisions necessary to prevent the €2,540 limit being used to exempt gains on the disposal of a "set of articles" (which is essentially one chattel of greater value than €2,540) by splitting it up into its component parts. Where parts of a "set of articles" all owned at one time by the same person are disposed of by that person to -

- (a) the same person, or
- (b) persons who are acting in concert or who are connected persons within the terms of **Section 10** (see **Tax Instruction 19.2.9 Par. 1** et seq.),

the separate parts are to be treated for the purposes of the exemption limit of €2,540 as if they constituted one asset.

Example 1.

In 2003, a taxpayer buys a silver tea set at a jumble sale for €200. She later discovers that it is worth considerably more than she paid for it. In 2007 he sells part of it to a dealer for €2,000. In 2008, she sells the rest to the same dealer for €1,800. The total chargeable gain is as follows:-

2007	Proceeds			2,000
	Cost 200 x	<u>2,000</u>	=	<u>105</u>
		2,000 + 1,800		1,895
	Gain			
2008	Proceeds			1,800
	Cost 200 x	<u>1,800</u>	=	<u>95</u>
		2,000 + 1,800		
	Gain			1,705

The overriding limit on the tax chargeable is $\frac{1}{2}$ (€3,800 - 2540) = €630.

If the tax chargeable under the two assessments taken together exceeds the overriding limit, the appropriate reduction in tax should be made by reference to the proportion of the total sale proceeds applicable to each year,

				€
2007:	€1,895 @ 20%			379
2008	€1,705 @ 20%			<u>341</u>
	Total			720
	Less overriding limit (as above)			<u>630</u>
	Total reduction in tax			90
2007		<u>2,000</u>	x 90	47
		2,000 + 1,800		
2008:	Balance			43

The tax chargeable will therefore be:-

1994/95	€379 less £47	332
1995/96	€341 less €43	<u>298</u>
		630

Example 2.

In 2003, a taxpayer buys a silver tea set for €3,000. In 2005, the taxpayer sells part of it to a dealer for €1,000. In 2006, he sells the rest to the same dealer for €1100. The total loss is €900 but the allowable loss is computed as if the sale price was €2,540 and is therefore limited to €460 (plus any allowable expenses). This loss is allocated to the separate years of assessment by reference to the total sale proceeds applicable to each year –

2005	Allowable loss	$\frac{1000}{1000 + 1100}$	x 460 =	€219
2006	Allowable loss	$\frac{1100}{1000 + 1100}$	x 460 =	€241

- 2.7** The Concise Oxford Dictionary defines the word "set" as a number of things that belong together as essentially similar or complementary to each other. This definition is not, however, satisfactory in the context of **Section 602(5)**. A thousand seats in a hall are essentially similar to each other; various items of furniture in a room may be complementary; but in neither case would the assets form a "set" for Capital Gains Tax purposes.

A practical approach is to say that, broadly, a group of articles form a "set" if they are

- (a) essentially similar and complementary, and
- (b) their value as a whole is greater than the sum of the values of the parts.

- 2.8** An entire collection of stamps does not normally constitute a "set" even if they are all of one country or all of one "theme" (e.g., all stamps depicting birds). All the values of a commemorative issue or of a definitive issue of one country will, however, normally constitute a "set".

Similarly a collection of coins which are not currency (**Tax Instruction 19.1.2 Par. 1 to Par. 3**) is not likely to constitute a "set". All the values minted in one year will, however, usually form a "set".

- 2.9** The fact that -

- (a) a number of chattels are included in one "lot", or
- (b) a number of similar articles are sold on behalf of one person and bought by one other person,

should not be regarded as necessarily implying that the articles form a "set".

- 2.10** Structures on land may be chattels. A general rule is that a structure annexed to land only by its own weight is a chattel.

Normally, a building which is not a chattel but a part of the land would pass under a conveyance of the land, whereas a chattel would pass under a contract.

- 2.11** **Section 602(6)** is intended to prevent the avoidance of tax by the disposal for less than €2,540 of a right or interest in a chattel worth more than €2,540 (followed by the disposal at a later date of the chattel itself).

In such a case, the chargeable gain is a due proportion of the gain which would have been charged if the whole asset had been disposed of for the sum of the consideration received for the right or interest and the value of the remaining part of the asset.

In determining whether the €2,540 limit applies -

- (a) the market value of what remains undisposed of should be aggregated with the consideration received for the actual disposal, and the maximum tax chargeable in respect of the gain (or the maximum relief allowable in respect of the loss) calculated by reference to that aggregate figure;
 - (b) if the aggregate exceeds €2,540, the maximum tax chargeable should then be reduced to the proportion which the actual consideration for disposal bears to the aggregate;
 - (c) if the aggregate is less than €2,540, any relief which would be allowable in respect of a loss calculated on the basis described at (a) above should similarly be restricted to the proportion which the actual consideration upon disposal bears to the aggregate.
- 2.12** **Section 602** does not apply to gains accruing on the disposal of -
- (a) commodity "futures" or
 - (b) currency (see **Tax Instruction [19.1.2](#) Par. 1**).
- 2.13** A "commodity futures" contract is a contract made subject to the rules of a particular terminal market to buy or to sell, as the case may be, a standard quantity of a commodity of standard grade or quality at a specified price for collection or delivery at a specified future time. It is, therefore, a contract for the acquisition or disposal of tangible movable property.
- 2.14** **Section 602** provides that the general exemption of tangible movable property where the sale price or market value is €2,540 or less shall not apply to commodity futures, and consequently gains on transactions in futures, are chargeable gains, irrespective of the amount of the consideration on disposal.

