



Capital Gains Tax

7-Year Relief

Introduction

S. 64 Finance Act 2012 introduced a new 7-year relief for CGT which applies to land or buildings in the EEA (including Ireland) acquired in the period commencing on 07 December 2011 and ending on 31 December 2014.

Conditions of Relief

S. 604A Taxes Consolidation Act 1997 ("TCA 97") provides that the property must be acquired for a consideration equal to the market value of the asset, or not less than 75% of the market value if it was acquired from a relative. Relative for this purpose means a brother, sister, uncle, aunt, niece, nephew, ancestor or lineal descendant.

The property must be acquired between 07 December 2011 and 31 December 2014.

The property must be held for at least 7 years after the date of acquisition. In addition any income or gains derived from the land or buildings must be within the charge to income tax or CGT in the 7 years from the date of acquisition.

The section provides relief for 7 years of ownership by exempting the relevant portion of any gain on the eventual sale. In effect the gain arising over the entire period of ownership is time apportioned, and the portion relating to the first 7 years of ownership is exempt from CGT. The balance of the gain is taxable in the normal way.

There is an anti-avoidance provision which indicates that if any arrangements have been entered into in order to secure a tax advantage, or there is an arrangement which falls within the anti avoidance provisions for artificial losses in S. 546A

TCA 97, then the relief will not be available.

Calculation of Relief

As the relief operates on a time apportioned basis, the timing of any sale should be considered.

Example:

Adam acquires a property in January 2013 and retains the property for 10 years before selling it in January 2023. The gain arising on the disposal of the property is €100,000.

The chargeable gain is time apportioned and relief is available on the portion of the gain relating to the first 7 years of ownership. The relief is €100,000 x 7/10 so the gain is as follows:

	€
Gain	100,000
S.604A relief	<u>(70,000)</u>
Chargeable gain	30,000

When is Property Acquired?

Revenue have confirmed that the standard CGT rule applies to determine when an asset is acquired for the purposes of this relief.

Where an asset is acquired by contract S. 542 TCA 97 provides that the acquisition occurs when the contract is made, and if the contract is conditional it occurs when the condition is satisfied. Therefore it is not necessary to have closed a purchase contract before 31 December 2014 to qualify for the 7-year relief, as long as an unconditional contract is signed before that date.

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Caveat: These notes are intended as a general guide only. OHT has endeavoured to provide an accurate commentary but the notes cannot cover all circumstances. OHT strongly recommends that formal tax advice be obtained before any steps are taken that may have a tax effect.