Revenue Commissioners

Tax Briefing No 01

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Section 79C - Computation of amount to be brought into charge where there is a change in the rate of Capital Gains Tax during an accounting period

Section 79C of the Taxes Consolidation Act 1997 was introduced by section 65 of the Finance Act 2012 and applies in respect of accounting periods ending on or after 1 January 2012. The section allows a holding company that has at least one trading subsidiary to calculate any currency gain or loss on a disposal of foreign currency in an Irish bank account using Corporation Tax rather than Capital Gains Tax rules.

In order that there is no loss to the Exchequer, section 79C provides that the amount of any currency gain brought into charge is increased by an amount that will make the tax payable equate to the amount that would have been payable if Capital Gains Tax rather than Corporation Tax applied.

The rate of Capital Gains Tax was increased from 30% to 33% with effect from 6th December 2012. Where a company's accounting period ends before 31 December 2013, it will be necessary to apportion the amount of the gain. Such apportionment should be carried out on a time basis as set out below.

Formula to be used:

Accounting periods ending in the period 1st January 2012 to 31st December 2012:

The formula to be used in respect of accounting periods ending in the period 1st January 2012 to 31st December 2012 is as follows:

$$\frac{A \times 6}{5}$$

Where:

A is the net foreign exchange gain credited to the profit and loss account of the relevant holding company reduced by so much of any loss under Section 383 TCA 1997 as is attributable to a net foreign exchange loss and which has not been deducted from any other income.

6/5 is used to ensure that the rate applicable will be the Capital Gains Tax rate (i.e. 30% in 2012) and not the Corporation Tax rate (i.e. 25% in 2012).

Accounting periods ending after the 1st January 2013:

The formula to be used in respect of accounting periods ending after the 1st January 2013 is as follows:

$$\frac{A \times C}{B}$$

Where:

A is the net foreign exchange gain credited to the profit and loss account of the relevant holding company reduced by so much of any loss under Section 383 TCA 1997 as is attributable to a net foreign exchange loss and which has not been deducted from any other income.

B is the rate referred to in Section 21A(3)(a) TCA 1997, being the current rate of Corporation Tax on Case IV income.

C is the rate referred to in Section 28(3) TCA 1997, being the current rate of Capital Gains Tax.

Change of Capital Gains Tax rate during an accounting period

Where the rate of Capital Gains Tax changes during an accounting period of a company, the amount of the gain will be apportioned on a time basis. The formula contained in Section 79C TCA 1997 is then applied to the pre and post CGT change amounts in order to determine the amount chargeable to Corporation Tax for the year.

Example

A company has made a gain of €100,000 in the accounting year ended 30th June 2013. 158 days of the gain is chargeable at the CGT rate of 30% [i.e the rate prevailing for the period 1st July 2012 to 5th December 2012] and 207 days of the gain is chargeable at the CGT rate of 33% [i.e the rate prevailing for the period 6th December 2012 to 30th June 2013].

The Capital Gains tax that is due is €31,701 calculated as follows:

Period	**Calculation**	**Amount**
1 July 2012 to 5 December 2012:	€100,000 x 158/365 = €43,288 CGT due €43,288 @ 30% =	€12,986
6 December 2012 to 30 June 2013	€100,000 x 207/365 = €56,712 CGT due €56,712 @ 33% =	€18,715
Total Capital Gains Tax Due	=	€31,701

Under Section 79C the amount to be brought into charge for Corporation Tax purposes is €126,804 calculated as follows:

Period	**Calculation**	**Amount**
1 July 2012 to 5 December	€43,288 x 30/25 =	€51,945

Period	Calculation	Amount
2012:		
6 December 2012 to 30 June 2013	€56,712 x 33/25 =	€74,859
Total for Corporation Tax purposes	=	€126,804
Corporation Tax @ 25%	=	€31,701