

Charities (S.609)

Part 19-07-06

This document should be read in conjunction with section 609
of the Taxes Consolidation Act 1997

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Introduction

Section 609(1) of the Taxes Consolidation Act 1997 ("TCA 1997") provides for an exemption for the capital gains of charities in so far as they are applicable to and applied for charitable purposes.

A charity claiming exemption must seek approval as a charity from Charities Section, Government Offices, St. Conlon's Road Nenagh Co Tipperary.

"Charity" has the meaning assigned to it by **section 208(1) TCA 1997**.

6.1 Property ceasing to be subject to charitable trust

Section 609(2) TCA 1997 concerns property which, without being sold, ceases to be subject to charitable trusts. For example, property may be held subject to a charitable trust for a period of, say, fifteen years and then revert to a non-charitable trust.

In these circumstances, the trustees should be treated as having sold and immediately re-acquired the property at the date of its reversion to non-charitable purposes for a consideration equal to its market value, and any resultant gain (together with any gains which had previously accrued to the trustees on the disposal of any property from which the property currently held was derived) should be treated as not accruing to a charity.

6.2 Charities as residual legatee of an asset of a deceased person

Where a charity is a residual legatee of an asset of a deceased person, the charity has no interest in the property prior to the date of ascertainment of the residue (The King v Homes, 1921, T.C. 646). Consequently, the exemption applies only to gains accruing to the charity on the disposal of an asset after that date. Chargeable gains accruing before that date are gains of the executors and chargeable on them (but see [Tax and Duty Manual Part 19-03-09](#)).