

Partnerships (S.30)

Part 02-03-03

This document should be read in conjunction with section 30 of the Taxes Consolidation Act 1997

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Introduction

Section 30 of the Taxes Consolidation Act 1997 ("TCA 1997") provides that in the case of a partnership, chargeable gains accruing to the partners on the disposal of partnership assets are apportioned between the partners and assessed and charged on them separately and not on the partnership itself. Any partnership dealings in assets are treated as dealings by the partners and not by the partnership as such.

3.1 Persons

Individuals, trustees and all "persons" (including companies) other than certain persons specifically exempted, are chargeable to Capital Gains Tax.

3.2 Partners

Partners are assessed and charged separately on gains accruing from the disposal of partnership assets. Partnership dealings in assets should be treated as dealings by the partners, and not by the firm as such. Gains accruing on a disposal of partnership assets should be apportioned among the partners, in accordance with the terms of the partnership in relation to the assets and assessed and charged on the partners separately.

3.3 Partner's interest

A partner's interest in a partnership (as distinct from his interest in the assets of the partnership) is not, as such, a chargeable asset. When a partnership interest is transferred, there is a disposal of the transferor's interest in the chargeable assets of the partnership.

3.4 Non-resident partnership

Where part of the trade or business of a non-resident partnership is carried on in the State through a branch or agency, gains on the disposal of chargeable assets situated in the State which were used in or for the purposes of that trade (or which were used or held or acquired for use by or for the purposes of the branch or agency) are chargeable on the partners respectively in accordance with their apportioned shares, whether or not those partners are ordinarily resident in the State.

3.5 Goodwill

Goodwill is a chargeable asset and, consequently, a gain accruing on the disposal by a partner of his or her share of a firm's goodwill is chargeable.

3.6 Connected Persons

Partners are “connected persons” (see Tax and Duty Manual (TDM) [Part 19-02-09](#)) and the instructions in TDM [Part 19-02-09](#) should be followed where assets (including, in particular, goodwill) pass between them.

3.7 Stock-in-trade and work in progress

On the disposal of a partnership interest consideration may pass specifically for stock-in-trade and work in progress. By reason of **section 544 TCA 1997**, however, no chargeable gain accrues in respect of the disposal of these two subsidiary assets, notwithstanding that by reason of the operation of continuance treatment for Income Tax (“IT”) purposes, a part of the sum realised by the sale of the stock-in-trade or in respect of completion and delivery of the work in progress escapes IT assessment. Stock-in-trade and work in progress of a business are wholly on income account.

3.8 Replacement of business assets

For the computation of relief in respect of replacement of business assets in the case of a partnership, see TDM [Part 19-06-02](#).

3.9 Partnership return

A partnership is required to make a return on Form 1 (Firms) of its chargeable gains and chargeable assets acquired. Any chargeable gains or allowable losses should, however, be assessed and charged on or allowed to the partners individually, in accordance with the preceding instructions.