

## **Disposals in cases of hire purchase and similar transactions (S.539)**

### **Part 19-01-10**

This document should be read in conjunction with section 539 of the Taxes Consolidation Act 1997

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## Introduction

**Section 539 of the Taxes Consolidation Act 1997** (“TCA 1997”) outlines the circumstances in which hire purchase transactions can give rise to Capital Gains Tax (“CGT”). A hire purchase of an asset is treated, as regards both parties to the agreement, as an outright disposal of the asset at the beginning of the period of hire. However, if the hire terminates without the property in the asset passing to the person having the use or enjoyment of the asset (for example, by repossession for failure to pay the instalments), the necessary CGT adjustments, whether by way of repayment of tax or discharge, is to be made on the basis that there was in fact no disposal of the asset in the first instance.

### 10.1 Transactions which give rise to CGT

In so far as hire purchase transactions are concerned, CGT situations should arise only very rarely. In the case of the vendor/financier such transactions will normally be reflected in profits chargeable to Income Tax or Corporation Tax, while in the case of the hirer the assets involved will usually be:

- (a) wasting assets which are exempt ([Tax and Duty Manual \(TDM\) Part 19-02-16](#)), or
- (b) wasting assets which have qualified for capital allowances ([TDM Part 19-02-17](#)).

In the rare case where CGT does arise, **section 539 TCA 1997** provides that a hire purchase or other transaction (under which the use and enjoyment of an asset is obtained by a person for a period (the period of "hire"), at the end of which the property in the asset will or may pass to him or her) should be treated, with regard to both parties to the transaction, as if it were an outright sale at the beginning of the period of hire.

If for any reason the hire terminates without the property passing (e.g. by repossession because of failure to pay the instalments), the charge should be adjusted (by discharge or repayment) in accordance with the particular circumstances of the case.

### 10.2 Time Limit

The 4-year time limit provided for in **section 865 TCA 1997** does not prevent Revenue from repaying an amount of tax arising from an adjustment of tax where a claim for such an adjustment is made within 4 years from the end of the chargeable period (within the meaning of **section 321 TCA 1997**) in which the termination occurs – see **section 137 and Sch 6(1)(g) Finance Act 2008**, which applies on and from 31 January 2008. The term “chargeable period” is defined in **section 321 TCA 1997** as meaning an accounting period of a company or a year of assessment.