Interpretation and general including interaction with other taxes (S.544)

Part 19-02-01

This document should be read in conjunction with section 544
of the Taxes Consolidation Act 1997

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Introduction

Section 544 of the Taxes Consolidation Act 1997 (“TCA 1997”) contains interpretational provisions and a number of general rules relating to the computation of chargeable gains and allowable losses. These rules include the provision that no deduction is allowable more than once and the provision relating to apportionments of consideration and expenditure where necessary.

1.1 Details

In general, the disposal of an asset at a profit or gain gives rise to a tax liability. The disposal of an asset which is not normally regarded as stock-in-trade may be an adventure in the nature of trade, in which case the profit or gain is assessable to Income Tax. Moreover, a sum received in respect of such an asset, otherwise than by reference to its complete disposal, may also be liable to tax as income. Any such charge to Income Tax (“IT”) precludes a charge to Capital Gains Tax (“CGT”) in respect of that receipt (to the extent that it is so covered), but there may be a residual liability to CGT on any part of the receipt not so charged.

Similarly, any expenditure which is or in some circumstances might be allowable in the computation of an IT liability or notional liability is not allowable expenditure for CGT purposes.

1.2 Further guidance

See Tax and Duty Manual (TDM) Part 19-02-02, TDM Part 19-02-03and TDM Part 19-02-04 for related issues.