Market value of property and unquoted shares (S.548)

Part 19-02-08

This document should be read in conjunction with section 548
of the Taxes Consolidation Act 1997

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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Introduction

Section 548 of the Taxes Consolidation Act ("TCA 1997") sets out the meaning of market value where this is required for Capital Gains Tax ("CGT") purposes. The situations where the market value of an asset is of importance for CGT purposes include assets passing on death, transfers by gift and other transfers by means of bargains not at arm's length, certain disposals and re-acquisitions of trust assets and cases where gains or losses on the disposal of an asset are to be computed by reference to market value at 6 April 1974.

The basic rule is that market value is the price which an asset might reasonably be expected to fetch on a sale in the open market. In the case of shares or securities quoted on a stock exchange in Ireland or in the United Kingdom, market value is to be based on the quotations as published in official lists. For unquoted shares it is to be assumed that in arriving at the market value full information about the shares is available to the prospective purchaser.

8.1 Market value

As the matter of valuation has been central to the computation of several taxes and duties, the phrase "market value" has been judicially considered in many cases over the years, in this country and elsewhere. The following points have emerged:

(a) The "expected" sale price is the price which would be expected by persons who are aware of all relevant details of the asset ascertainable at the valuation date (not some time later). The gift of foresight cannot be ascribed to these persons. Developments or discoveries subsequent to the date in question should not be taken into account.

(b) It must be assumed that, at the valuation date, the owner is willing to sell and the (hypothetical) purchaser is willing to buy. One must disregard any reluctance of the owner to part with the asset on that date. On the other hand, the owner should not be regarded as anxious to sell at any price, however low. Market value is the price the property would have fetched if put up for sale - not the figure (possibly much higher) below which, in reality, the owner would not have sold.

(c) The hypothetical open market must be realistic. One cannot postulate that certain persons would be interested in acquiring the property at the valuation date if in fact, because of their circumstances, they would not have been interested. A person who would have been interested in acquiring the property, at the valuation date, should not be excluded from the market but that person should not be regarded as being anxious to buy, irrespective of cost.

(d) The concept of an "open market" includes all potential purchasers; market value is the highest price that anyone with sufficient resources would reasonably be prepared to pay for the asset, having regard (a) to the availability of alternative similar assets, (b) to the benefit likely to be derived from the asset in question and (c) to demand by other persons for the asset.

8.2 Valuation considerations

The valuation of "property" is not an exact science. Nevertheless, it is normally possible, once all the relevant facts about an asset are known, to say with confidence that its market value lies within a certain price range. An exhaustive list of relevant facts cannot be given (because of differing circumstances), but in general the following points arise for consideration: -

(a) the type of property, its location, size, age and condition;

(b) the date the vendor acquired the property and its cost;

(c) the nature and terms of the tenure; the existence of sub-lettings and restrictive covenants;

(d) planning permission factors e.g., zoning status, development potential, existence of services, surrounding developments, planning limitations;

(e) turnover (in the case of some commercial premises), nature of the business and the possibility of expansion or conversion; and

(f) comparable sales i.e., the results of actual sales of similar properties at or about the valuation date, and the differences between those properties and the property in question.

8.3 Market value at 6 April 1974

Questions as to market value arise most often under three headings -

(a) Deemed acquisitions at 6 April 1974.

(b) Non-arm's length and deemed acquisitions after 6 April 1974.

(c) Non-arm's length and deemed disposals after 6 April 1974.

It is not feasible to provide reliable specific guidelines as to market values. An average price per acre of good agricultural land (without buildings) in a particular county in 1974 might be €600 but that average may reflect specific prices as high as €800 or as low as €400 - depending on circumstances such as the size of a holding and its precise location. Similarly, where there has been a disposal of land for development purposes, the market value of that land at 6 April 1974 may be simply its value as an agricultural holding (if at that time the only demand for it would have been for farming purposes) or several times' agricultural value if the land was serviced and had full planning permission.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

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8.4 Small part-disposals

The purpose of paragraphs (a) to (c) below is to reduce the number of valuation reports required in the case of small part-disposals. This would normally apply where a valuation is required at both the base date and at the time of disposal. For information on the treatment of part disposals generally refer to Tax and Duty Manual Part 19-02-14.

(a) Section 557 TCA 1997 contains provisions for determining the amount deductible in a computation of chargeable gain where only part of an asset is disposed of.

Where an amount of expenditure is wholly attributable to a part of an asset, that amount is the deductible amount under section 557(4) TCA 1997. Where expenditure cannot be so attributed, section 557(2) TCA 1997 provides for an apportionment -

$$\frac{A}{A + B}$$

where A is the consideration and B is the market value of the retained part of the asset at the time of disposal.

(b) Section 557 (4) TCA 1997 is relevant to small part-disposals of land. Small in this context means small in size *or* monetary terms relative to the total asset. For example, one could describe as small a part-disposal of

- 10 acres of agricultural land out of a 100-acre farm;
- 50 acres of bog-land (value €25,000) from a 200-acre mixed holding (value €600,000);
- Two ½ acre sites from a 30-acre farm.

In such a case, the application of the

$$\frac{A}{A + B}$$

formula could give rise to the expense and inconvenience of two formal valuations, one for the entire property at the base date (6 April 1974 or, if later, the date of acquisition) and one for the part retained. On the facts of the case, these valuations may not be strictly necessary.

(c) Accordingly, in the case of small part disposals, taxpayers need not obtain valuations of the entire asset at the base date *and* of the part retained at the time of disposal. Instead-

- The computation should be based on a valuation of the part sold at the base date (6 April 1974 or, if later, the date of acquisition). This valuation should take account of the fact that the part being valued was part of a larger asset; and
- if not already known, the taxpayer should be asked to identify the asset out of which the part disposal is made, and the part of the asset disposed of.