# Wasting assets (S.560)

## Part 19-02-16

This document should be read in conjunction with section 560 of the Taxes Consolidation Act 1997

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

## Table of Contents

# Introduction

**Section 560 of the Taxes Consolidation Act 1997** ("TCA 1997") provides guidelines on the treatment of allowable expenditure in the computation of a gain or loss on the disposal of wasting assets. In general, a wasting asset is an asset which has a predictable life not exceeding 50 years, but freehold land is not a wasting asset whatever its nature.

## 16.1 Tangible movable property

Tangible movable property which is a wasting asset (e.g. a yacht or a racehorse) is exempt from the charge to Capital Gains Tax ("CGT").

## 16.2 Useful life

A wasting asset is one whose useful life is limited so that over a period of time it gradually becomes either valueless or worth only scrap value. Where such an asset is disposed of after a period of ownership, the disposal comprises only what is in substance a diminished part of the original asset, the other part having been exhausted by use or passage of time.

**Section 560 TCA 1997** provides that items of plant and machinery are in every case to be regarded as having a predictable life of less than 50 years, or in other words "wasting assets" for CGT purposes. This is so that in computing any gain or loss on a disposal of plant or machinery, the cost of the item is treated as written off at a uniform rate to NIL at the end of its life, thus ensuring that claims for losses cannot arise.

**Section 603 TCA 1997** provides that an asset that is tangible movable property and a wasting asset is exempt from CGT - except where it is used in a trade or profession and eligible for capital allowances (see Tax and Duty Manual (TDM) Part 19-02-17).

Many assets, such as a lease of a house, have a fixed term of life and others, such as a motor cruiser, have an approximately predictable useful life. Their market values may fluctuate as market conditions vary, but it is certain that within a limited time they will become worthless or worth only scrap value. Basically, their values will gradually waste, but during that period their owners will extract the benefit and use up those values. When wasting assets are used for the purposes of a trade, capital allowances recognise this wastage.

For CGT purposes, there is no such allowance because the product or the use of the assets (which may simply be personal enjoyment) is not taxable except in the cases of –

(a) assets which have qualified in full for capital allowances, and

(b) short leases (for which there are special rules), the allowable expenditure (less the estimated scrap value at the end of the life of the asset) on assets with a predictable life of less than fifty years is reduced by equal daily amounts (i.e. on a straight line basis) over the predictable life, and on a disposal only the residue of the expenditure is allowable.

Successive additional items of expenditure are similarly "wasted" by reference to the date on which the expenditure was first reflected in the state or nature of the asset.

Where an asset has qualified in part for capital allowances, the expenditure is apportioned and the rules relating to capital allowances and wasting assets respectively apply.

## 16.3 Works of Art

The interaction of the equivalent UK provisions to **section 560 TCA 1997** (Wasting Assets) and **section 603 TCA 1997** (Wasting Chattels) came under scrutiny in 2014 in the case of Revenue and Customs Commissioners v Executors of Lord Howard of Henderskelfe [2014 STC 1100]. In that case it was held that a valuable painting on display in a stately home was an item of plant and therefore, by reference to UK CGT legislation, a “wasting asset” although sold for an amount in excess of £9m sterling. In the particular circumstances of that case the painting did not qualify for capital allowances and it was held to be exempt from CGT.

It was not the intention that such valuable items should be exempt from CGT. Accordingly, in the light of the UK decision mentioned, it was decided to amend **section 560 TCA 1997** to address this anomaly.

**Section 47 Finance Act 2014** amended the definition of “wasting asset” in **section 560 TCA 1997** to provide that the section only applies to plant other than plant that is a work of art. This ensures that the exemption in **section 603 TCA 1997** will not apply to a “work of art”. The term “work of art” is defined to include a picture, print, book, manuscript, sculpture, piece of jewellery, furniture or similar object.

The amendment applies to disposals made on or after 23 December 2014 (i.e. the date of the passing of Finance Act 2014).

See also TDM Part 19-07-02, concerning gains which are exempt where the consideration for the disposal of a chattel does not exceed €2,540.

## 16.4 Wasting asset

For the particular purposes of CGT, a "wasting asset" is an asset with a predictable life not exceeding 50 years. That general definition is, however, subject to the following reservations: -

(a) Freehold land is not a wasting asset whatever its nature and whatever the nature of the buildings or works on it.

(b) "Life", in relation to any tangible moveable property, means useful life having regard to the purpose for which the tangible assets were acquired or provided by the person making the disposal.

(c) Plant (other than plant that is a work of art) and machinery should in every case be regarded as having a predictable life of less than 50 years, and in estimating that life it should be assumed that –

(i) the life of the plant will end when it is finally taken out of use as being unfit for further use;

(ii) it is going to be used in the normal manner and to the normal extent; and

(iii) it is going to be used throughout its life as so estimated.

(d) A life interest in settled property should not be regarded as a wasting asset until the predictable expectation of life of the life tenant is 50 years or less. The predictable life of a life interest in settled property and of an annuity is ascertained from actuarial tables approved by the Revenue Commissioners (see **para 16.8**).

(e) Special rules apply to the following wasting assets: -

(i) Leases of land (generally) (see TDM Part 19-02-21);

(ii) Terminable and renewable leases of land (see TDM Part 19-02-21

(iii) Leases of property other than land (see TDM Part 19-02-21).

## 16.5 Copyright

The copyright in any work runs for a specified period. It is a wasting asset within **Section 560 TCA 1997** from the end of the calendar year in which –

(a) the author, etc., dies, or

(b) the work is first published or produced, whichever is the later.

## 16.6 Predictable life

In some cases (e.g. a lease of land for a fixed period) the predictable life is immediately ascertainable from the nature of the asset because it has a legal period or residual period of existence. However, in the case of, for example, plant and machinery, the life should be estimated at the time of the disposal, on the basis of the facts as they were known or ascertainable at the time when the asset was acquired or provided by the person making the disposal.

Additional allowable expenditure on enhancing the value of an asset does not affect its predictable life.

## 16.7 Scrap value

The "residual or scrap value" means the predictable value, if any, which the wasting asset will have at the end of its predictable life. This value is to be estimated at the time of disposal on the basis of the facts as they were known or ascertainable at the time when the asset was acquired or provided by the person making the disposal.

If additional allowable expenditure increases the estimated scrap value of the asset, that value should be adjusted on the basis that the additional expenditure was incurred at the same time as the original expenditure.

## 16.8 Life interest

The actuarial tables approved by the Revenue Commissioners for use in ascertaining the expected duration of life interests in settled property and of annuities (see (d) of **para 16.4**) are the select tables in The a(55) Tables for Annuitants, published in 1953 by the Cambridge University Press for the Institute of Actuaries and the Faculty of Actuaries. These tables are the same as those prescribed for the determination of the capital element of purchased life annuities by the Income Tax (Purchased Life Annuities) Regulations, 1959 (S.I. No. 152 of 1959).

## 16.9 Redeemable shares and securities

Redeemable shares and securities should not normally be regarded as wasting assets, notwithstanding that they are redeemable within 50 years of the acquisition by the person making the disposal. However, securities of an exceptional nature (e.g.

debentures issued at a price materially in excess of the redemption price as a means of financing expenditure by members' clubs) should be regarded as wasting assets.

## 16.10 Original cost of the asset

Except in the case of a lease of land (see TDM Part 19-02-21), it should be assumed, for the purpose of computing the gain or loss on the disposal of a wasting asset, that the original cost of the asset (i.e. the expenditure allowable under (a) of "Allowable expenditure" in TDM Part 19-02-10) after deducting its scrap value wastes away to nothing at the end of its predictable life, and any additional expenditure incurred subsequently (i.e. the allowable expenditure under (b) of "Allowable expenditure" in TDM Part 19-02-10) wastes away to nothing over the period between the date when it was incurred and the end of the predictable life of the asset.

The wastage of the expenditure is deemed to take place on a straight-line basis, i.e. by equal daily amounts.

## 16.11 Excluded expenditure

In simple terms, the fraction of any allowable expenditure to be excluded in the computation of a gain is –

$$\frac{\text{Period from date of expenditure to disposal of asset}}{\text{Period from date of expenditure to end of predictable life}}$$

The expenditure to be excluded may be expressed as a formula as follows: -

| | | |
|---|---|---|
| L | = | the predictable life of the asset at the time when it was acquired or provided by the person making the disposal. |
| E(1) | = | the initial expenditure allowable under (a) of TDM Part 19-02-10, on acquiring or providing the asset. |
| E(2) | = | subsequent expenditure incurred and allowable under (b) of TDM Part 19-02-10 on enhancing the value of the asset. |
| T(1) | = | the period of time between the acquisition or provision of the asset (i.e. when E(1) was incurred) and the disposal. |
| T(2) | = | the period between the time when E(2) was incurred and the disposal. |
| S | = | the scrap value estimated at the time of the expenditure of E(1), increased as appropriate, if that estimated value is greater by reason of the expenditure E(2). |

The expenditure to be excluded is -

in relation to $E(1)$ - $[E(1) - S] \times \dfrac{T(1)}{L}$

in relation to $E(2)$ - $E(2) \times \dfrac{T(2)}{L - [T(1) - T(2)]}$

(if there were a third expenditure E(3), the exclusion in relation to it would be)

$E(3) \times \dfrac{T(3)}{L - [T(1) - T(3)]}$

**Example 1**

On 1 April 2014, a person buys an asset for €30,000 inclusive of the expenses of purchase. Its predictable life is 20 years and its scrap value at the end of that time €1,000. The amount of expenditure less the scrap value is thus €29,000. He or she sells the asset on 1 April 2019 for €28,000. His or her chargeable gain (subject to expenses of sale) is –

| | | | | | **€** | **€** |
|---|---|---|---|---|---|---|
| Sale Price | | | | | | 28,000 |
| Cost [E(1)] | | | | | 30,000 | |
| Part cost attributable to the period of ownership not allowable - | | | | | | |
| Cost (Less scrap value) | x | $\dfrac{\text{Period of ownership}}{\text{Predictable life}}$ | = | | | |
| i.e. (E(1)-S) | x | $\dfrac{T(1)}{L}$ | = | | | |
| €29,000 | x | $\dfrac{5}{20}$ | = | | 7,250 | 22,750 |
| Chargeable Gain | | | | | | 5,250 |

**Example 2**

The facts are the same as in Example 1, except that in this example the person incurs allowable expenditure of €5,000 on 1 April 2016. The predictable life is unaltered, but the scrap value is increased to €1,400. The amount of the original expenditure less the scrap value as amended is €28,600.

The sale price on 1 April 2019 is €32,000. The chargeable gain (subject to expenses of sale) is then –

| | | | | **€** | **€** | **€** |
|---|---|---|---|---|---|---|
| Sale Price | | | | | | 32,000 |
| Cost [E(1)] | | | | 30,000 | | |
| Part cost attributable to the period of ownership not allowable - | | | | | | |
| Cost (Less scrap value) | x | Period of ownership | = | | | |
| | | Predictable life | | | | |
| i.e. (E(1)-S) | x | T(1) | = | | | |
| | | L | | | | |
| €29,000 | x | 5 | = | 7,250 | 22,750 | |
| | | 20 | | | | |
| Expenditure 2016 | | | | 5,000 | | |
| Part not allowable | | | | | | |
| Expenditure | x | Period from date incurred to sale | = | | | |
| | | Period from date incurred to end of “life” | | | | |
| €5,000 | x | 3 | = | 833 | 4,167 | 26,917 |
| | | 18 | | | | |
| Chargeable Gain | | | | | | 5,083 |