

Collection of tax from beneficiaries

Part 19-03-06

This document should be read in conjunction with sections 567, 574, 576 and 577 of the Taxes Consolidation Act 1997

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Introduction

Under the ordinary meaning of disposal, the creation of a trust (other than a bare trust within **section 567(2) of the Taxes Consolidation Act 1997 (“TCA 1997”)**) constitutes a disposal and the settlor should be charged to tax by reference to the market value of the assets as at the date of settlement. [Section 574 TCA 1997](#) treats the trustees of a settlement as a single and continuing body of persons distinct from the persons who may from time to time be trustees. The trustees are chargeable to Capital Gains Tax (“CGT”) on any chargeable gains made by them, as such a single continuing body, on the disposal of trust assets. The trustees as a body are to be regarded as resident and ordinarily resident in the State unless the administration of the trust is carried on outside the State and all the trustees, or a majority of them, are not resident or not ordinarily resident in the State.

6.1 Collection of tax from beneficiaries

Where:

- (a) the tax on a chargeable gain accruing to trustees is not paid within six months of the due and payable date, and
- (b) while the tax is still outstanding, the asset (or any part of the proceeds of sale of the asset) on which a gain arose is transferred by the trustees to any beneficiary who is absolutely entitled to it,

the tax outstanding may be assessed on that person in the name of the trustees at any time within two years from the date when it became payable by the trustees.

6.2 Creation of a settlement

On the creation of a settlement, the settlor’s Revenue branch is responsible for the settlor’s CGT liability and for advising the trustee’s Revenue branch of the agreed values of each asset at the date of introduction into the settlement.

6.3 Beneficiary becomes absolutely entitled to an asset

When a beneficiary becomes absolutely entitled to an asset, the Revenue branch responsible for the trust should notify the beneficiary’s Revenue branch of the nature of the asset transferred, the date of transfer, the agreed transfer value and any losses transferred to the beneficiary (see [Tax and Duty Manual \(TDM\) Part 19-03-03](#) which sets out in greater detail the provisions that apply when a beneficiary becomes absolutely entitled to an asset and the applicable rules with respect to losses).

6.4 Termination of a life interest

Where a charge on the termination of a life interest is necessary ([TDM Part 19-03-05](#)) and the trustee has not already given full details (e.g. when submitting Form 1), he or she should be asked for a detailed statement of each of the chargeable assets of the trust indicating:

- (a) the date of acquisition;
- (b) the agreed cost or acquisition value;
- (c) the market value at 6 April 1974, where appropriate; and
- (d) the market value at the date of termination of the life interest.

Supporting bills or receipts should be requested only where there is doubt about a taxpayer's figure of cost or acquisition value in a material case.