

## [19.07.03A]Capital Gains Tax

### Relief on Disposals of Certain Land or Buildings

#### 1. Introduction.

Section 604A Taxes Consolidation Act 1997 (enacted by Section 64 FA 2012) introduced a capital gains tax relief on disposals of land or buildings acquired in the period commencing on 7 December 2011 and ending on 31 December 2013. Section 44 F (No2) A 2013, extended the period within which the land or buildings may be acquired for the purposes of this relief to 31 December 2014.

The intention of the relief was to help stimulate activity in the property market. Its extension to 31 December 2014 recognised that while there may have been some recovery in the market since its introduction, it is likely that the market would benefit from further support.

For the purposes of satisfying the acquisition timeframe – the relief applies to land or buildings acquired in the period from 7 December 2011 to 31 December 2014 (both dates inclusive) – the normal CGT provisions contained in Section 542 Taxes Consolidation Act 1997, as regards the time of acquisition and time of disposal apply. Accordingly, land or buildings will be treated as acquired on or before 31 December 2014 where either

- An unconditional contract has been made on or before that date (and regardless of the fact that the asset may be conveyed or transferred after that date), or
- A contract is made subject to a condition precedent and the condition is satisfied on or before that date.

Having regard to the fact that land is defined in Section 5 of the Taxes Consolidation Act 1997 as including any interest in land (which would include buildings situated on land) and to the definition of land in Part 1 of the Schedule to the Interpretation Act 2005 (which includes houses and buildings) no distinction as between land or buildings need be made in relation to this relief. Accordingly, in the remainder of this instruction references to “property” can be taken to refer to either land or buildings.

#### 2. The Relief

Property acquired in the State or in any State in the European Economic Area (“EEA”) during the period 7 December 2011 to 31 December 2014 will, if held for a period of 7 years, qualify for full relief on any gain arising on disposal – Section 604A(2)(b) refers.

**Note:** The EEA States comprise all EU member states and includes Norway, Iceland and Liechtenstein.

**Example:** Property acquired on 1 March 2012 for €500,000 and sold on 2 March 2019 for €700,000.

Gain of €200,000 is fully relieved as the property is held for a full 7 years.

Where the property is held for longer than 7 years, relief will apply to the following part of any gain:  $7/n$  (where “n” is the total number of years of ownership)

**Example:** Property acquired on 1 March 2012 for €500,000 and sold on 2 March 2022 for €800,000 – i.e. property owned for a full 10 years.

Gain of €300,000 is partially relieved:

Gain	€300,000
Less Relief $300,000 \times 7/10$	<u>€210,000</u>
Chargeable Gain	€ 90,000

### 3. Additional Conditions

Relief under this Section will only be available if any income, profits or gains derived from the property by the person who acquired it in the 7 year period is income, profits or gains to which the Income Tax Acts or the Corporation Tax Acts apply.

- Enhancement Expenditure.** The relief is available in respect of property acquired on or before 31 December 2014 and retained for a period of 7 years – with partial relief if held for longer than 7 years.

The provision makes no reference to enhancement expenditure. Accordingly, any gain on disposal is to be calculated in the normal way in accordance with CGT rules. If enhancement expenditure – including construction of buildings on land and the completion of partially constructed buildings – is incurred at any time during the period of ownership, and is reflected in the land or buildings at the time of disposal, it will be taken into account in computing any gain – and to the extent that that property is retained for 7 years any such gain will not be chargeable. The enhancement expenditure need not have been incurred prior to 31 December 2014.

**Example:** Property acquired on 1 March 2012 for €500,000 with a further €300,000 of enhancement expenditure incurred during the seven year period of ownership. The property is sold on 2 March 2019 for €1 million.

The gain on the disposal of the property of €200,000 is fully relieved as the property is held for a full 7 years.

- Relief under this Section will not be available where any “arrangements” have been put in place that have the effect of a chargeable gain being relieved by more than it would have been if the “arrangements” had not been put in place. In this context “arrangements” means any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable) within the meaning of Section 546A of the Taxes Consolidation Act 1997.

