

Superannuation funds (S.608)

Part 19-07-05

This document should be read in conjunction with section 608
of the Taxes Consolidation Act 1997

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Introduction

Section 608 of the Taxes Consolidation Act 1997 ("TCA 1997") provides that gains from the disposal of investments held as part of an approved superannuation fund, the assets of a Personal Retirement Savings Account (PRSA) or investments held as part of a cross-border pension scheme (to the extent that the income from the investment funds is exempt from Income Tax) shall not be chargeable gains. Gains from the disposal of investments of the superannuation fund set up for members of the Houses of the Oireachtas are also exempt. For these purposes, contracts for financial futures or traded options are treated as if they were an investment. Thus, any gains arising to the superannuation fund, the PRSA or cross-border pension scheme from dealing in financial futures and trading options are also exempt.

5.1 Exemption to approved funds

Section 608(2) exempts gains accruing on the disposal of investments of an approved superannuation fund or where part only of the fund is approved, a proportion of the gains corresponding to the proportion of the income of the fund which is exempt.

5.2 Exemption to particular funds

The exemption is given in the following cases where the particular fund has been approved by the Revenue Commissioners -

- (a) a fund established under irrevocable trusts for the purpose of providing retirement annuities for individuals engaged in a particular occupation, with or without subsidiary benefits for their dependants (**Section 784(4)**);
- (b) a trust scheme established for the purpose of providing an annuity for the husband or wife of an individual or for one or more of the individual's dependants (**Section 785**);
- (c) gains on the disposal of investments of the superannuation funds of pension schemes approved by Revenue under **section 774, 784(4) or 785(5)** or held as PRSA assets (within the meaning of **section 787A**) are not chargeable gains and are thus exempt from Capital Gains Tax;
- (d) Persons exempt under cross-border schemes as set out in **Section 790B**.

5.3 Non-approved funds

Exemption for gains accruing on the disposal of assets of the fund does not extend to funds not approved by the Revenue Commissioners.

5.4 Superannuation funds and settled property

Except for the purpose of determining the residence of the trustees under **Section 574(1)**, the investments of a superannuation fund should not be regarded as "settled property" (Tax and Duty Manual [Part 19-03-02](#)) within the meaning of **Section 5**. When chargeable assets are given to the trustees, there is a disposal by the donor and an acquisition by the trustees for the time being.

5.5 Superannuation funds and lump sums

No chargeable gain accrues where a lump sum is received by an individual under the terms of a superannuation scheme. A "superannuation scheme" includes an individual pension arrangement.

5.6 Change of employment

On a change of employment there are normally three ways (apart from the return of the employee's contributions) in which the trustees of a pension scheme or fund based on life assurance policies can discharge their obligations to the employee who is leaving:-

- (a) the employee may be given a paid-up policy,
- (b) the policy may be assigned to the employee, who may then continue to pay the premiums himself or herself,
- (c) the policy may be assigned to a new employer who may be willing to take over the policy (and the obligation to pay the benefit) and to continue paying the premiums.

Unless the employee (or, in case (c), the new employer) gives consideration in money or money's worth for the gift or assignment, a gain on disposal of a benefit under the policy is not a chargeable gain. For this purpose, the cancellation or transfer of obligations under the policy should not be regarded as consideration in money or money's worth.