

Transfers of Assets between Civil Partners

Part 44a-02-01

This document should be read in conjunction with sections 1031M and 1031O of the Taxes Consolidation Act 1997

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1 Executive summary

This manual sets out how civil partners are assessed for capital gains tax (CGT) purposes. It also sets out the rules relating to the treatment of transfers of assets between civil partners for CGT purposes and subsequent disposals of assets which had previously been transferred between civil partners.

1.1 Joint assessment of civil partners, transfers of assets between civil partners and subsequent disposals of assets by civil partners

Section 1031M provides that civil partners living together may nominate which partner is to be the assessable person for the purposes of CGT.

The transfer of assets between the civil partners is treated as having been made on a “no gain, no loss” basis. This treatment does not apply where the civil partner acquiring the asset could not be charged to CGT in Ireland in respect of a gain on a subsequent disposal of that asset in the year in which the acquisition took place.

Allowable losses of one civil partner in a tax year may be offset against gains of the other civil partner.

Any subsequent disposal by the civil partner who acquired the asset is treated as if that civil partner had acquired it at the same time and cost at which it was originally acquired by the other civil partner.

The relief does not apply to trading stock.

1.2 Transfers of assets where civil partnership dissolved and subsequent disposals of assets by civil partners

Section 1031O provides that where by virtue of -

- (a) an order made under Part 12 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, or following the granting of a decree of dissolution under section 5(4) of that Act, or
- (b) a deed of separation, agreement, arrangement or any other act giving rise to a legally enforceable obligation, and made or done as a result of separation where the civil partners are living apart and reconciliation is unlikely,

either civil partner disposes of an asset to the other civil partner, that disposal is treated as having been made on a “no gain, no loss” basis.

This treatment does not apply in circumstances where the civil partner acquiring the asset could not be subject to CGT in Ireland in respect of a gain on a subsequent disposal of that asset in the year in which the acquisition took place.

Any subsequent disposal by the civil partner who acquired the asset is treated as if that civil partner had acquired it at the same time and cost at which it was originally acquired by the other civil partner.

The relief does not apply to trading stock.