

CHAPTER 6

PART DISPOSALS

6.1 Introduction

A taxpayer makes a part disposal when he sells part of an asset. The most common example of a part disposal, will be when a taxpayer sells part of a piece of land. Land is a relatively easy asset to divide into parts. With other assets, such as buildings or paintings etc., they are not easily divided, so the part disposal rules will rarely apply.

[TCGA 1992, s. 21\(2\)\(a\)](#)

The part disposal rules will also be used to calculate the gain on the disposal of a right or interest in an asset. For example, when a taxpayer grants a lease, he is creating a right or interest which is separate from his original asset. We shall look at how to calculate gains on grants of leases in a separate chapter.

[TCGA 1992, s. 21\(2\)\(b\)](#)

To calculate the chargeable gain on a part disposal, we start with sale proceeds then deduct the cost of the asset being sold. However, **if we are only selling part of an asset, we only take a deduction for part of the original cost.**

The way we arrive at the allowable cost, is to take the cost of the whole and multiply it by a fraction:

[TCGA 1992, s. 42\(2\)](#)

$$\frac{A}{A+B} \times \text{cost}$$

"A" is the gross disposal proceeds.

"B" is the value of the part retained.

Note that we use the **gross disposal proceeds** here, i.e. the proceeds before any expenses of sale are deducted.

Illustration 1

In July 1994, Seth bought 20 acres of land for £50,000. In February 2011, he sold part of the land for £28,000. In February 2011, the value of the land remaining was £112,000.

The calculation of Seth's capital gain on this part disposal will be as follows:

| | |
|--|-----------------|
| | £ |
| Proceeds | 28,000 |
| Less: Cost | |
| 50,000 × $\frac{28,000}{28,000 + 112,000}$ | <u>(10,000)</u> |
| Capital gain | <u>£18,000</u> |

Seth still has part of the field remaining. Therefore, when he comes to sell it, we need to know his base cost for CGT purposes. The cost of the whole field was £50,000. The amount of this cost used in the part disposal computation is £10,000. The base cost of the remaining area of land, is therefore the difference between these two:

| | |
|--------------------------------|----------------|
| Base cost of remainder of land | |
| £(50,000 - 10,000) | <u>£40,000</u> |

6.2 Interaction with enhancement expenditure

If the taxpayer has incurred enhancement expenditure it will fall into one of two categories. If the enhancement expenditure has **increased the value of the whole asset**, but only part of the asset is subsequently sold, we cannot take a deduction for the whole of the enhancement expenditure. Instead we need to multiply this expenditure by the $\frac{A}{A+B}$ fraction.

However, if the enhancement expenditure has been **specifically incurred on the part of the asset actually sold**, we are allowed to deduct the whole of the enhancement expenditure in calculating our capital gain.

Illustration 2

Jack purchases 100 acres of land in June 1980 for £100,000. The land had a March 1982 value of £140,000.

In May 1987, Jack incurs enhancement expenditure of £35,000 on the whole of the field. Later on, Jack decides to divide his land into two separate plots.

In January 1991, Jack spends £10,000 in enhancing plot 1 only. In October 2010, Jack sells plot 1 only for £400,000. The value of plot 2 in October 2010 is £300,000.

Jack's capital gain on the sale of plot 1 will be calculated using the March 1982 value as Jack - we ignore the original cost.

| | |
|--|-----------------|
| | £ |
| Proceeds | 400,000 |
| 1982 value | |
| $140,000 \times \frac{400}{400 + 300}$ | (80,000) |
| Enhancement (May 1987) | |
| $35,000 \times \frac{400}{400 + 300}$ | (20,000) |
| Enhancement (January 1991) | <u>(10,000)</u> |
| Gain | <u>290,000</u> |

6.3 "Small" part disposals of land

[TCGA 1992, s. 242](#)

A part disposal of land is "small" if **two conditions** are satisfied.

Firstly, the **proceeds** of the part disposal must be **less than or equal to 20% of the value of the land** as at the date of disposal.

[TCGA 1992, s. 242\(1\)\(a\)](#)

Secondly the **total proceeds of all land sales in the year must not exceed £20,000**. This means that a part disposal of land can never be small if sale proceeds are more than £20,000. If both conditions are satisfied, we have a "small" part disposal and the taxpayer can make a claim under TCGA 1992, s.242.

[TCGA 1992, s. 242\(3\)](#)

The effect of a s.242 claim is twofold:

1. The taxpayer will **not pay capital gains tax on these small proceeds** in the year of receipt. Effectively the small proceeds are ignored when considering his total capital gains for that year.
2. The small proceeds will thereafter be **deducted from the base cost of the land in the event of a future disposal**. This means that when the taxpayer sells the rest of his land, the gain on that land will be bigger because the base cost has been reduced.

This will not happen automatically. The taxpayer must make a claim within 4 years of the end of the tax year of the part disposal if he does not wish to pay tax on the small disposal proceeds.

If the taxpayer does not make a s.242 claim, a capital gain is charged in the normal way - i.e. by using the part disposal fraction $\frac{A}{A+B}$.

Illustration 3

Harriet bought a 10 acre paddock of land for £25,000 in January 1987. In March 1993, she sold one acre for £8,000. At this date, the other 9 acres were valued at £75,000. This was her only land sale in the year. In August 2010, Harriet sold the remaining 9 acres of the paddock to a property developer for £110,000.

In order to calculate the chargeable gains arising to Harriet as a result of these two land sales, the first question is whether the March 1993 sale was a small part disposal. The proceeds were £8,000 and the other 9 acres of land were valued at £75,000 at that point, which means that in 1993 the whole paddock was worth £83,000. Clearly £8,000 is less than 20% of the total value of the field, so the first condition is satisfied.

The second condition is that Harriet's total proceeds from all land sales in the year must be less than £20,000 - as Harriet made no other land disposals in the year, her total land sale proceeds in 1992/93 were £8,000.

Because both of the conditions have been satisfied, Harriet can make a claim under s. 242. There will be no disposal in 1992/93. Harriet will therefore have no CGT to pay on the £8,000 of proceeds received. However, this £8,000 will be deducted from the base cost of the land for a future disposal.

| | |
|-------------------------------|----------------|
| | £ |
| Cost of land | 25,000 |
| Less: "small proceeds" | <u>(8,000)</u> |
| Base cost for future disposal | <u>£17,000</u> |

On the sale of the rest of the paddock in August 2010, Harriet's sale proceeds are £110,000. This quite clearly is not a "small" part disposal.

From the computation above, Harriet's base cost is £17,000. This is made up of two elements - an original cost of £25,000, less a "negative" cost of £8,000.

| | | |
|---------------------|----------------|-----------------|
| | £ | £ |
| Proceeds | | 110,000 |
| Less: original cost | 25,000 | |
| Small proceeds | <u>(8,000)</u> | |
| | | <u>(17,000)</u> |
| Gain | | <u>93,000</u> |

Example 1

Marjorie bought 15 acres of land in May 1981 for £90,000. The land was worth £85,000 in March 1982.

Marjorie sold 6 acres of land in March 2011 for £95,000 (after £5,000 legal fees had been deducted). The remaining 9 acres were valued at £150,000 at that point.

Calculate Marjorie's gain chargeable in 2010/11.

Answer 1

| | £ |
|---|----------------------|
| Gross proceeds | 100,000 |
| Less: expenses of sale | <u>(5,000)</u> |
| | 95,000 |
| Less: March 1982 value | |
| $\text{£}85,000 \times \frac{100,000}{100,000 + 150,000}$ | <u>(34,000)</u> |
| Capital gain | <u><u>61,000</u></u> |