CHAPTER 10

CHATTELS

10.1 Introduction

The term "chattel" means **"tangible moveable property"** – i.e. assets which can be seen, touched and moved.

Chattels include assets such as paintings, antiques, racehorses and computers. Assets such as buildings, pieces of land, leases or shares are not chattels because they cannot be seen, touched and moved. For instance, land and buildings are not moveable assets, and assets such as leases and shares, are intangible assets - i.e. they cannot be physically seen or touched.

10.2 Wasting chattels

A wasting chattel is a chattel with a **predictable useful life not exceeding 50 years.** Examples of wasting chattels will be racehorses, computers, or pieces of plant or machinery. HMRC also regard assets such as clocks and watches as "machinery" for capital gains tax purposes. This means that an asset such as an antique grandfather clock will be regarded as a wasting asset for CGT purposes, as it falls within the definition of a "machine". TCGA 1992, s. 44 TCGA 1992, s. 44(1)(c)

Wasting chattels are exempt assets for CGT purposes. TCGA 1992, s. 45(1)

This means that if a taxpayer buys a racehorse which turns out to be successful, and he subsequently sells it at a substantial capital gain, that gain is exempt from CGT because it is a gain on the sale of a wasting chattel.

There is **one instance** when wasting chattels are **not exempt** from CGT. Wasting chattels will be chargeable to CGT, if they are used in a trade and **capital allowances have been or could have been claimed on them**. Therefore, if a taxpayer makes a gain on the sale of a computer or a piece of machinery which has been used in his trade, the gain is a chargeable gain because the trader would have claimed capital allowances on those assets. TCGA 1992, s. 45(2)

10.3 Non wasting chattels: proceeds ≤ £6,000

A non-wasting chattel is tangible moveable property that will last for **more than 50 years** – i.e. assets such as paintings, antiques and jewellery etc.

The first rule to consider in relation to non-wasting chattels is the "£6,000 rule". If a non-wasting chattel is sold, and **proceeds of sale are less than or equal to £6,000**, any resulting capital **gain is exempt** from CGT. TCGA 1992, s. 262(1)

Illustration 1

A painting was bought for £200 and is sold for £5,600. The vendor has a capital profit of £5,400. Because this is a gain on the sale of a non-wasting chattel, and the disposal proceeds do not exceed £6,000, the gain of £5,400 will not be charged to CGT.

Remember that certain assets are always exempt from capital gains tax, regardless of the disposal proceeds. These assets will include cars, or decorations for valour etc.

10.4 Non wasting chattels: loss with proceeds < £6,000

We next look at the special rule in relation to **capital losses**. Assume a non-wasting chattel, such as a painting or antique, is sold and realises disposal proceeds of less than £6,000. This time assume that a loss arises. To calculate the allowable loss for CGT purposes, the rules assume that the taxpayer has sold the non-wasting chattel for exactly £6,000. This means that we are **pretending that gross disposal proceeds are £6,000.** TCGA 1992, s. 262(3)

Illustration 2

A taxpayer buys a painting for £8,000. He sells it for £4,000, and incurs expenses of sale of £400.

The cash loss is £4,400 (4,000 – 400 – 8,000). However, for CGT purposes, in order to calculate the allowable loss, we must assume that gross proceeds were £6,000.

	Deemed
	£
Proceeds (deemed to be £6,000)	6,000
Less: expenses of sale	(400)
	5,600
Less: cost	(8,000)
Allowable loss	£(2,400)

The allowable loss of £2,400 can be set against other gains in the same year, or carried forward in the normal way. The application of the £6,000 rule restricts the allowable loss, but **cannot turn a loss into a gain**. Therefore if an asset is sold for less than £6,000, and a loss arises, the taxpayer will be left with neither a gain nor a loss – i.e. his gain or loss will be zero.

10.5 Non wasting chattels: the 5/3rds rule

TCGA 1992, s. 262(2)

The 5/3rds rule applies if a non-wasting chattel is sold, **disposal proceeds exceed £6,000, but the original acquisition cost was less than £6,000.**

We first calculate the chargeable gain in the normal way – i.e. proceeds less original cost to give a gain. However, this gain **cannot exceed** the gain using the following formula:

$$\frac{5}{3} \times (\text{Gross proceeds - £6,000})$$

This means that when calculating the gain on the sale of a chattel where proceeds exceed £6,000 but original cost was less than £6,000, we need to do **two computations**. The first computation calculates the gain in the normal way, whilst the second computation calculates the gain using the "5/3rds" rule. Having calculated two capital gains, the **lower** of these will be the gain.

Illustration 3

Tom inherited an antique vase on the death of his uncle in April 1991. The value of the vase in April 1991 – the "probate value" – was £3,000. Tom sold the vase in February 2011 for gross proceeds of £8,400. He incurred expenses of sale of £300. In order to calculate Tom's capital gain, we will first calculate the capital gain in the usual way.

	£
Gross proceeds	8,400
Less: expenses of sale	(300)
Net proceeds	8,100
Less: cost (i.e. "probate value")	(3,000)
Gain	£5,100

As we are dealing with the sale of a non-wasting chattel, where proceeds are more than £6,000 but acquisition cost was less than £6,000, we need to **apply the "5/3rds" rule.**

$$\frac{5}{3} \times £(8,400 - 6,000) = £4,000$$

The lower of the two gains is taken i.e. £4,000

Note we only use the 5/3rds rule, where the asset **originally cost less than £6,000.** If an asset is bought and sold for more than £6,000, we simply calculate the gain in the normal way, by taking proceeds less cost.

10.6 Gains on plant and machinery

If a taxpayer uses plant and machinery in his business, he can claim capital allowances on the cost of those assets. Capital allowances are HMRC's way of giving a trader relief for the depreciation of machinery used in his business. HMRC will always regard plant and machinery as having a useful life of less than 50 years, so such assets will always be treated as wasting assets.

Wasting chattels are exempt assets for CGT purposes. But there is an important exception to this general rule. **Where a taxpayer makes a gain on an asset on which capital allowances were claimed, that gain is a chargeable gain for CGT purposes.** As such, to calculate the capital gain we use normal CGT rules. If the particular piece of plant and machinery satisfies the definition of a chattel – i.e. it can be seen, touched and moved – we calculate the capital gain using the chattels rules we have just discussed. You should note that plant and machinery will not necessarily be a chattel. Some pieces of plant and machinery are immovable, and will not satisfy the definition of a chattel.

If a trader sells a machine and makes a loss, that **loss will not be allowable** for capital gains tax purposes. This is because the trader will already have received relief by way of a capital allowance. Capital allowances compensate the trader for the depreciation of his plant and machinery, so if he can claim a capital loss as well, this loss would effectively have been double counted. TCGA 1992, s. 41

If an individual sells a machine that did not qualify for capital allowances, the individual will be making a gain or loss on a wasting asset. If the machine is moveable, it will be treated as a wasting chattel and any gains or losses will be exempt.

Where a machine has been used only partly for business purposes, it will be necessary to calculate two gains apportioning proceeds and cost to reflect business and non-business use.

Illustration 4

Cameron bought a machine in May 2001 for £5,000. The machine is moveable, so it will satisfy the definition of a chattel. Cameron uses the machine 80% of the time for business purposes, and 20% of the time for non-business purposes. Cameron sells the machine in January 2011 for £10,000.

Cameron can claim capital allowances on 80% of the cost of the machinery, but he cannot claim capital allowances on the remaining 20%. As a general principle, only assets used for business purposes will qualify for capital allowances.

In order to calculate Cameron's chargeable gain, we split the gain into business and non-business parts as follows:

	Business	*Non*
	£	£
Proceeds: (80:20)	8,000	2,000
Less: cost (80:20)	(4,000)	(1,000)
Gains	£4,000	£1,000

The machine is a wasting chattel so gains are usually exempt. However, where capital allowances have been claimed, the gain is chargeable. Therefore only the "non-business" gain of £1,000 is exempt. The gain of £4,000 is chargeable under the normal chattels rules. As proceeds are more than £6,000 and cost is less than £6,000, we need to compare this to the gain calculated using the $\frac{5}{3}$ rule.

Compare to:	
$\frac{5}{3} \times (8{,}000 - 6{,}000)$	£3,333

Cameron will therefore be charged on the lower gain of £3,333.

Example 1

Jason sold 2 assets in January 2011 as follows:

	Date bought	*Cost*	*Proceeds*
Antique desk	15.1.97	£7,000	£4,000
Rare manuscript	1.5.05	£1,000	£9,000

Calculate Jason's chargeable gains.

Answer 1

	£
Desk	
Proceeds (deemed)	6,000
Less: cost	(7,000)
Allowable loss	£(1,000)
Manuscript	£
Proceeds	9,000
Less: cost	(1,000)
Gain	8,000
Restrict to:	£
$\frac{5}{3} \times (9{,}000 - 6{,}000)$	5,000
Less: loss on desk	(1,000)
Chargeable gains	£4,000