

CHAPTER 22

ROLLOVER RELIEF - FURTHER ASPECTS

22.1 Partial business use

Rollover relief is only available if an asset is used for business purposes. Where there is only partial business use we treat the part used for business and the part used for non-business purposes as **separate assets**. Having calculated the business element of the capital gain, rollover relief will be available to defer all or part of this gain. However the **non-business element** of the gain will be fully chargeable, and **no rollover relief** will be available.

[TCGA 1992, s. 152\(6\)](#)

In addition we must also consider whether the replacement asset is being fully used for business purposes. Where the new asset is partly used for business and partly used for non-business purposes, we must look at the **amount reinvested in the business element of the asset** only, as this will determine the amount of rollover relief a taxpayer can claim.

[TCGA 1992, s. 152\(11\)](#)

Illustration 1

A taxpayer bought a property for £160,000 in May 1987. He uses 75% of the building for business purposes, whilst the remaining 25% of the property is a flat which is being let out, and is not therefore used in his business. The taxpayer sells the whole of the property for £400,000 in September 2010.

We will therefore calculate two capital gains, by treating the business element and the non-business element as separate assets.

	<i>Business (75%)</i>	<i>Non business (25%)</i>
	£	£
Proceeds	300,000	100,000
Less: cost	<u>(120,000)</u>	<u>(40,000)</u>
Gains	<u>180,000</u>	<u>60,000</u>

The taxpayer replaced the property a few months later by buying a new building for £350,000. 80% of the new building is used for business purposes but 20% is used for non-business purposes.

The taxpayer has sold a business asset and replaced it with another, therefore he can claim rollover relief. However it is only the business gain on the old asset - i.e. part of the £180,000 - that will qualify for rollover relief. The gain of £60,000 on the non-business asset will be fully chargeable, and no rollover relief will be available.

To calculate how much of the gain of £180,000 may be rolled over, we must work out how much of the business proceeds from the old asset have been reinvested in the new asset. As far as the new asset is concerned, 80% is used for business and 20% is used for a non-business purpose. We therefore need to split the cost of £350,000 into business and non-business components. Essentially the taxpayer has bought two assets - a business asset for £280,000 and a non-business asset for £70,000.

We compare the business proceeds received with the amount of business proceeds reinvested. The taxpayer received £300,000 on the sale of the business element of the old asset. He reinvested £280,000 on the business element of the new asset. The business proceeds retained are therefore £20,000. This is immediately chargeable so the remaining £160,000 can be deferred by a rollover relief claim.

	<i>Business (75%)</i>	<i>Non business (25%)</i>
	£	£
Proceeds	<u>300,000</u>	<u>100,000</u>
Gains	180,000	60,000
Rollover relief	(160,000)	<u>Nil</u>
Gain £(300,000-280,000)	<u>20,000</u>	<u>60,000</u>
Total gains	<u>£80,000</u>	

The rolled over gain of £160,000 reduces the base cost of the new business asset which now becomes £120,000. As no rollover relief can be claimed, the base cost of the new non-business asset remains at £70,000.

	<i>Business (80%)</i>	<i>Non business (20%)</i>
	£	£
Cost	<u>280,000</u>	<u>70,000</u>
Total	350,000	
Rolled over gain	<u>(160,000)</u>	
Base cost	<u>£190,000</u>	

22.2 Buying more than one asset

If a trader sells an old asset, then uses the money to buy more than one qualifying asset, the trader can allocate the rollover relief in any way he chooses.

[Revenue Manual](#)
[CG 60775](#)

Illustration 2

A trader sells an old asset and reinvests his proceeds in two qualifying assets - a building and some fixed plant and machinery.

The original asset was sold for £200,000 giving rise to a capital gain of £80,000. The replacement building cost £90,000 whilst the fixed plant and machinery cost £80,000.

We first work out how much of the sale proceeds have been reinvested. The trader received £200,000 from the sale of the old asset and has spent £170,000 in acquiring new qualifying assets. The gain chargeable now is £30,000, being equal to the cash retained, leaving £50,000 to be deferred under the rollover relief rules.

	£
Proceeds	200,000
Cost	<u>(120,000)</u>
Gain	80,000
Rollover relief	<u>(50,000)</u>
Gain (200,000 - 170,000)	<u>30,000</u>

Here the trader **can defer the gain of £50,000 in two ways.**

The £50,000 of the gain could be **rolled over and reduce the base cost of the new building.** Alternatively, because the trader has reinvested part of his proceeds in a depreciating asset - i.e. the fixed plant and machinery - the trader could choose to **freeze** the gain of £50,000.

Given the choice, the trader will often **prefer to rollover** the gain and allow it to reduce the base cost of the new building. The new building now has a base cost of £40,000. This may be a more preferable alternative to freezing the gain, because under the depreciating asset rules, this **frozen gain can only be postponed for a maximum of 10 years.** Having rolled the gain of £50,000 against the base cost of the replacement building, this gain will only become chargeable on the ultimate disposal of this building.

	<i>Building</i>	<i>Machine</i>
	£	£
Cost	90,000	80,000
Rolled over gain	<u>(50,000)</u>	
Base cost	<u>£40,000</u>	

There may sometimes be a case for choosing to freeze the gain rather than rolling it against the base cost of the building. You should always consider the facts and circumstances of each case before making a decision.

Having made a gain on the disposal of an original asset, the amount of the gain that can be deferred depends on how much of the sale proceeds have been reinvested in total within the four year time window. The proceeds do not have to be reinvested in one single qualifying asset.

Example 1

Tamsin, a trader, bought an office in December 2006 for £120,000. Two-thirds of the office was used for business and one-third was let to a third party.

Tamsin bought a storage unit for her business in December 2009 for £150,000. She sold the office in October 2010 for £270,000.

Calculate Tamsin's chargeable gain in 2010/11.

Answer 1

Sale of office

	Business (2/3) £	Non-business (1/3) £
Proceeds	180,000	90,000
Less: cost	<u>(80,000)</u>	<u>(40,000)</u>
Gain	100,000	50,000
Less: rollover relief	<u>(70,000)</u>	<u>Nil</u>
Gain (180,000 - 150,000)	<u>£30,000</u>	<u>£50,000</u>

Total gains £80,000