

Disposals to authority possessing compulsory purchase powers. CGT(A)A78 s5 605.—(1) Where a person makes a disposal of or of an interest in property situate in the State (in this section referred to as “the original assets”) to an authority possessing compulsory purchase powers and claims and proves to the satisfaction of the Revenue Commissioners that—

(a) the disposal would not have been made but for—

(i) the exercise of those powers, or

(ii) the giving by the authority of formal notice of its intention to exercise those powers,

(b) the whole of the consideration for the disposal and no more is applied in acquiring other property situate in the State or an interest in such other property (in this section referred to as “the replacement assets”), and

(c) the original assets and the replacement assets are within one, and the same one, of the classes of assets specified in subsection (5),

then, for the purposes of the Capital Gains Tax Acts, the disposal shall not be treated as involving any disposal of the original assets and the acquisition shall not be treated as involving any acquisition of the replacement assets or any part of those assets, but the original assets and the replacement assets shall be treated as the same assets acquired as the original assets were acquired.

(2) In a case where subsection (1) would apply but for the fact that an amount in excess of the amount or value of the consideration for the disposal concerned is applied as described in paragraph (b) of that subsection—

(a) the person making the disposal shall be treated for the purposes of the Capital Gains Tax Acts as if, in consideration of that excess, that person had acquired at the time of the acquisition of the replacement assets a portion of those assets which bears to the whole the same proportion as the amount of the excess bears to the amount or value of the consideration applied in acquiring the replacement assets, and

(b) subsection (1) shall apply to the remainder of those assets and to the original assets.

(3) In a case where subsection (1) would apply but for the fact that part of the amount or value of the consideration for the disposal concerned is not applied as described in paragraph (b) of that subsection—

(a) the person making the disposal shall be treated for the purposes of the Capital Gains Tax Acts as if, in consideration of that part, that person had disposed of an interest in the original assets, and

(b) subsection (1) shall apply to the remainder of those assets and to the replacement assets.

(4) This section shall apply only if the acquisition of the replacement assets takes place, or an

unconditional contract for the acquisition is entered into, in the period beginning 12 months before and ending 3 years after the disposal of the original assets, or at such earlier or later time as the Revenue Commissioners may by notice in writing allow; but, where an unconditional contract for the acquisition is so entered into, this section may be applied on a provisional basis without ascertaining whether the replacement assets are acquired in pursuance of the contract, and when that fact is ascertained all necessary adjustments shall be made by making assessments or by repayment or discharge of tax, and shall be so made notwithstanding any limitation in the Capital Gains Tax Acts on the time within which assessments may be made.

(5) The classes of assets referred to in subsection (1) shall be as follows:

Class 1

Assets of a trade carried on by the person making the disposal which consist of—

(a) plant or machinery;

(b) except where the trade is a trade of dealing in or developing land, or of providing services for the occupier of land in which the person carrying on the trade has an estate or interest—

(i) any building or part of a building and any permanent or semi-permanent structure in the nature of a building occupied (as well as used) only for the purposes of the trade,

(ii) any land occupied (as well as used) only for the purposes of the trade, provided that where the trade is a trade of dealing in or developing land, but a profit on the sale of any land held for the purposes of the trade would not form part of the trading profits, the trade shall be treated for the purposes of this subsection as if it were not a trade of dealing in or developing land;

(c) goodwill.

Class 2

Any land or buildings, not being land or buildings within Class 1, but excluding a dwelling house or part of a dwelling house in relation to which the person making the disposal would be entitled to claim relief under section 604.