

Allowable losses. CGTA75 s7(2) and s12(1), (2), (6) and (7); CGT(A)A78 s16 and Sch1 par7 546.—(1) Where under the Capital Gains Tax Acts an asset is not a chargeable asset, no allowable loss shall accrue on its disposal.

(2) Except where otherwise expressly provided, the amount of a loss accruing on a disposal of an asset shall be computed in the same way as the amount of a gain accruing on a disposal is computed.

(3) Except where otherwise expressly provided, the provisions of the Capital Gains Tax Acts which distinguish gains which are chargeable gains from those which are not, or which make part of a gain a chargeable gain and part not, shall apply also to distinguish losses which are allowable losses from those which are not, and to make part of a loss an allowable loss and part not, and references in the Capital Gains Tax Acts to an allowable loss shall be construed accordingly.

(4) A loss accruing to a person in a year of assessment for which the person is neither resident nor ordinarily resident in the State shall not be an allowable loss for the purposes of the Capital Gains Tax Acts unless under section 29 (3) the person would be chargeable to capital gains tax in respect of a chargeable gain if there had been a gain instead of a loss on that occasion.

(5) Except where provided by section 573, an allowable loss accruing in a year of assessment shall not be allowable as a deduction from chargeable gains in any earlier year of assessment, and relief shall not be given under the Capital Gains Tax Acts—

(a) more than once in respect of any loss or part of a loss, and

(b) if and in so far as relief has been or may be given in respect of that loss or part of a loss under the Income Tax Acts.

(6) For the purposes of section 31, where, on the assumption that there were no allowable losses to be deducted under that section, a person would be chargeable under the Capital Gains Tax Acts at more than one rate of tax for a year of assessment, any allowable losses to be deducted under that section shall be deducted—

(a) if the person would be so chargeable at 2 different rates, from the chargeable gains which would be so chargeable at the higher of those rates and, in so far as they cannot be so deducted, from the chargeable gains which would be so chargeable at the lower of those rates, and

(b) if the person would be so chargeable at 3 or more rates, from the chargeable gains which would be so chargeable at the highest of those rates and, in so far as they cannot be so deducted, from the chargeable gains which would be so chargeable at the next highest of those rates, and so on.