

## Chattel Be The Day...

### (Lecture P1058 – 15.06 minutes)

A client of mine has an elderly mother who has recently moved into a nursing home. To help pay the fees, the client is arranging for his mother's house to be sold. Before putting the house on the market, the property is being decluttered of the various nick-nacks one tends to accumulate over the years. But among the general detritus within the property there are a number of pieces that have potentially lucrative resale value and it was this that triggered the call from my client who wished to know the CGT implications (if any) of selling his elderly mother's bric-a-brac.

I think he expected a nice simple answer. Unfortunately the chattels rules within TCGA 1992 are not quite as simple as one might think...

#### *General principles*

CGT is levied on most types of tangible property including chattels. Chattels are defined as tangible moveable property (things you can see, touch and move). Common examples are paintings, antiques, furniture, fine wines, stamps, coins, shotguns, racehorses, jewellery and clocks. [I'm not suggesting my client found a shotgun or a racehorse in his mother's attic, but there was certainly evidence of several of the others.]

Motor vehicles are also chattels but all passenger vehicles, including classic cars, are exempt from CGT so these are not considered any further.

For CGT purposes chattels are divided into "wasting" and "non-wasting" chattels, the non-wasting variety being chattels with a predictable useful life of more than 50 years. Useful life is determined at the date of acquisition, having regard for the intended use of the asset when it was obtained. This can be a topic of lively discussion particularly in the case of assets such as wines and spirits where some are not intended to be kept for more than 50 years (and would therefore be wasting assets) and where lifespan is affected by external factors such as vintage and storage. There are of course many fine wines (and fortified wines such as ports) which are intended at the outset to be kept for more than 50 years and which will therefore be non-wasting assets, so specialist advice may be required in the event of a disposal.

All chattels that are "machines" (being assets which have some sort of mechanism) are automatically treated as wasting chattels (the UK tax legislation refuses to recognise any possibility of a machine having a useful life of more than 50 years). Therefore assets such as yachts, clocks and watches will be treated as wasting chattels for CGT purposes (being machines by nature), notwithstanding the fact that in reality there are antique clocks and watches that have been around for many decades.

Wasting chattels are exempt from CGT. No chargeable gains or allowable losses will therefore arise on a disposal of a wasting chattel regardless of the sales proceeds. This is intended to protect the Exchequer by denying relief for the capital losses that inevitably arise on assets with a limited shelf-life.

However from a planning prospective it can sometimes do the opposite as this blanket exemption makes assets such as antique clocks and watches potentially very investible given that no CGT will be paid on sale (although regular purchases and sales of such assets could lead HMRC to try and tax any profits under the trading income rules, so care must be taken).

Perhaps less obviously, assets such as antique shotguns should also be exempt from CGT given that working shotguns have a mechanism thereby qualifying them as wasting chattels. The market for antique shotguns is historically buoyant. Investing in thoroughbred racehorses can also be a CGT-free pastime although this is perhaps not an investment for the risk averse (the performance of an animal by nature being less predictable than a shotgun or a grandfather clock).

Note that wasting chattels are CGT exempt unless they are used in a trade and capital allowances have been (or could have been) claimed on them. Therefore if (unusually) a trader sells a piece of plant and machinery at a profit, the gain is chargeable.

However a sale at a loss will not normally give rise to an allowable loss for CGT purposes because relief for the fall in value of the asset will already have been taken through the capital allowances computation.

Non-wasting chattels are chargeable assets for CGT and special rules apply to calculate gains and losses on disposal. These can be summarised in the Table below:

<u>Gross proceeds</u>	<u>Base cost</u>	<u>CGT treatment</u>
< £6,000	< £6,000	Gain not chargeable / loss not allowable
> £6,000	< £6,000	Gain restricted to $5/3 \times (\text{Gross proceeds} - £6,000)$
< £6,000	> £6,000	Loss calculated assuming gross sale proceeds are £6,000
> £6,000	> £6,000	No special rules (Gain = Proceeds - Cost)

#### *Illustration 1*

Mrs Richardson sold the following assets in 2017/18:

<u>Asset</u>	<u>Gross proceeds</u>	<u>Selling expenses</u>	<u>Base cost</u>
	£	£	£
Antique ring	4,000	200	7,000
Grandfather clock	30,000	1,500	5,000
Bottle of vintage wine	5,500	275	1,000
Vase	9,000	450	2,500
Oil painting	20,000	Nil	7,500

Her chargeable gains for 2017/18 are as follows;

Asset:	£	£
<i><u>Antique ring:</u></i>		
Gross proceeds (deemed)	6,000	
Less: Selling expenses	<u>(200)</u>	
Net proceeds	5,800	
Less: Base cost	<u>(7,000)</u>	
Allowable loss		(1,200)
<i><u>Grandfather clock:</u></i>		
		Exempt
<i><u>Bottle of vintage wine:</u></i>		
		Exempt
<i><u>Vase:</u></i>		
Gross proceeds	9,000	
Less: Selling expenses	<u>(450)</u>	
Net proceeds	8,550	
Less: Base cost	<u>(2,500)</u>	
Gain	<u>6,050</u>	
Restricted to: $5/3 \times £(9,000 - 6,000)$		5,000
<i><u>Oil painting:</u></i>		
Proceeds	20,000	
Less: Base cost	<u>(7,500)</u>	
Gain		12,500
Net gains for year		16,300

A useful tip for married couples / civil partners is for them to buy non-wasting chattels in joint names. This means that no CGT will arise if the sales proceeds are £12,000 or less. Transferring a chattel into joint names by means of a no-gain-no-loss gift prior to disposal will also achieve the same result although a formal deed of gift is recommended to evidence the inter-spouse transfer in case of a HMRC enquiry.

## Sets

A “set” is a number of chattels that are similar and complementary to each other and worth more together than separately. Examples include books by the same author, matching ornaments, commemorative stamps or complementary pieces of furniture. A collector could therefore inadvertently create a set of assets even by acquiring them individually and at different times.

Bottles of vintage fine wine are typically regarded as separate assets for CGT purposes. Sales for less than £6,000 per bottle will generally therefore be CGT exempt. However a collection of bottles may form a set if they are similar and complementary (ie, produced from the same vineyard in the same vintage year and worth more when sold collectively).

Disposal of assets in a set are treated as separate disposals unless they are sold to the same person (or persons who are connected with each other or who are acting in concert). If a “set” of chattels is sold to the same person or persons, the set will be considered to be one asset for CGT purposes. This means that the £6,000 limit in the Table above applies to all of the set collectively and not to each item individually.

### *Illustration 2*

Olivia bought a set of 4 watercolour prints in 2010 for £1,000. Each depicted a view of Regents Park in a different season of the year. The death of the artist in 2017 greatly increased the value of the prints and in January 2018 Olivia sold each print for £3,000 to a local collector.

### *Solution*

The prints are non-wasting chattels. Although each print was individually bought and sold for less than £6,000, the gain on each disposal is not exempt as the assets collectively form a set. The proceeds must therefore be aggregated together to determine the CGT treatment.

	£	£
<u>Watercolour prints:</u>		
Collective proceeds (4 x £3,000)	12,000	
Less: Base cost	<u>(1,000)</u>	
Gain	<u>11,000</u>	
Restricted to: $5/3 \times £(12,000 - 6,000)$		10,000

### *Inheritance tax issues*

Please note that the above rules apply for CGT only and do not apply for inheritance tax (IHT). So if a chattel is given away or is left to a beneficiary in the will, IHT could be payable based on the open market value of the chattel.

There is no differentiation between wasting and non-wasting chattels (so cars, clocks and shotguns are all chargeable to IHT) and there is no £6,000 de-minimis rule.

The lifetime gift of a chattel to a non-spouse will be a potentially exempt transfer (PET) only chargeable to IHT if the donor dies within 7 years. The amount chargeable to IHT is the loss to the donor's estate as a result of the gift. In most cases this will be the open market value of the asset at the date of the gift. However care must be taken where sets or collections of assets are concerned because transfers of value are measured in terms of the loss to the donor's estate as a result of the disposition and if part of a set or collection is given away, the loss to the estate is likely to be higher than the stand-alone value of the asset gifted.

In terms of the death estate, chattels must be valued at their open market value and are generally chargeable to IHT (there are exceptions for chattels which comprise decorations or awards for valour or for gallant conduct such as military medals and medals awarded for public conduct such as OBEs and MBEs).

Note that it is important to value the chattels separately from the house in which they are kept because the residence nil rate band introduced in April 2017 cannot exceed the value of the property (this being the value of the land and buildings only). The value of personal possessions within the property must therefore be excluded.

Where the estate includes a large number of valuable chattels (such as works of art and fine antiques), the estate could attract a very high IHT liability without having the liquid funds to meet the tax. Selling the chattels is of course a solution but that could then lead to family heirlooms that had been passed down through the generations having to be sold simply to fund the tax bill.

One solution here is to use condition exemption for Heritage Property that involves:

An approach to HMRC to see whether the assets in question qualify as objects which are "pre-eminent for their national, scientific, historical or artistic interest"; and if so

Allowing reasonable public access to the assets (which could be as little as making the chattels available for public viewing for around 30 days a year). A temporary loan of the asset(s) to a local museum or gallery will typically serve this purpose.

A successful claim for conditional exemption will mean that any IHT payable on the chattels within the claim is deferred until either the assets are sold or the undertakings given to HMRC re public access etc. are broken). In many cases a successful claim will defer the IHT until the death of the owner at which point a new claim can be made (and new undertakings given) by the new owner to prolong the IHT deferral.

*Contributed by Steve Sanders*