

# OHT Guide to CGT Pay & File Dates



For **2009** and later years the tax year is divided into two periods for CGT purposes, as follows:

1. '**initial period**' - 1 January to 30 November, and
2. '**later period**' - 1 December - 31 December.

The CGT payment dates are:

1. Disposals in the initial period: Tax due by **15 December in the same tax year**, and
2. Disposals in the later period: Tax due by **31 January in the following tax year**.

In any case, the return will be due for filing by **31 October in the following tax year**.

The date of disposal determines when the CGT falls due. S. 542 of the Taxes Consolidation Act 1997 deals with the date of disposal. If an asset is disposed of and acquired under a contract, the time at which the disposal is made is the time at which the contract is made (and not, if different, the time at which the asset is transferred). Where the contract is conditional, the time at which the disposal and acquisition is made is the time at which the condition is satisfied.

Where compensation or insurance money is received in relation to an asset, the time of disposal is the time the money is received. In the case of a gift the time of disposal and acquisition will normally be the time the property effectively passes. In cases not specifically mentioned in the section, the time of disposal is determined on the relevant facts.

## Compulsory Purchase Orders

The Finance Act 2010 (FA10) revised the disposal date for CGT on land which is acquired by means of a compulsory purchase order (CPO). Previously the date of the disposal was the earlier of the date the local authority entered the land, and the date on which the compensation was agreed.

FA10 provides that the date of disposal for a CPO will be the date the compensation is actually received. This prevents the individual who has sold land by way of CPO becoming liable to pay the CGT before he has received the consideration. If a person who is making a disposal under a CPO dies before the consideration is received the disposal will be deemed to occur immediately before the death.

## FAQs on CGT Date of Disposal

In Tax Briefing 36 Revenue have published some FAQs on the time of disposal for CGT purposes, and an extract is set out below.

**Q. Where a contract provides that the disposal and acquisition is subject to planning permission being obtained, is the contract a conditional contract?**

A. Yes. A contract is 'conditional' if the condition attaching to it is a 'condition precedent'. A condition precedent is a condition which neither party to the contract covenants to bring about, but which has to be satisfied before an obligation to perform the contract arises. The contract is not enforceable until the condition is satisfied. Under a contract which provides that the disposal and acquisition is subject to planning permission being obtained, the disposal and acquisition will not take place if planning permission is not obtained. Accordingly, obtaining planning permission is a condition precedent to the performance of the contract.

**Q. Where a contract provides that the disposal and acquisition is subject to loan approval being obtained, is the contract a conditional contract?**

A. Yes. As with contracts which are made subject to planning permission being obtained, a contract which provides that the disposal and acquisition is subject to loan approval being obtained is a conditional contract since the disposal and acquisition will not take place if loan approval is not obtained. Obtaining loan approval is a condition precedent to the performance of the contract.

## Late Payment or Returns

The Revenue charge interest for the late payment of tax and a surcharge if a CGT return is filed late. In eBrief 53 of 2008 practitioners were reminded that a return is required, and failure to file the return exposes the customer to a potential surcharge liability even if the CGT is paid on time. The date of disposal should be identified to clarify the date on which the return and tax are due.

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**Caveat:** These notes are intended as a general guide only. OHT strongly recommends that formal tax advice be obtained before any steps are taken that may have a tax effect.