

### [19.7.3] Disposals of Principal private residence (S.604)

- 3.1** Relief is given in respect of the gain accruing on the disposal of a dwelling-house (or part of a dwelling-house) which is a person's only or main private residence. Where only part of the dwelling-house qualifies, the gain is apportioned.

There is also apportionment to ensure that the relief is restricted to the proportion of the period of ownership during which the dwelling-house was the only or main private residence and for this purpose the dwelling-house is treated as having been so occupied during certain periods of non-residence, including

- those periods spent elsewhere in the State or abroad by reason of the duties of an employment and
- a period of up to a year after the cessation of occupation (to allow for the finding of a buyer and the negotiation of a sale).

A claim for more than one private residence cannot, however, be allowed for any such period (except the last twelve months).

The relief extends to gains accruing on disposal by trustees of a dwelling-house which was occupied by a person who was entitled to occupy it under the terms of the trust. The relief is also available, under certain circumstances, where the house has been occupied by a dependent relative.

At any one time a person may have only one qualifying residence and for this purpose a husband and wife are regarded as one person. There is a procedure for determining which of two residences shall qualify. There is a restriction of relief in respect of expenditure incurred for the purpose of realising a gain and not for the purposes of the person residing in the dwelling-house.

- 3.2** **Section 604** applies to a gain accruing to an individual on the disposal of -

- (a) a dwelling-house or part of a dwelling-house which is or has been occupied by him as his only or main residence, or
- (b) land which at the date of disposal is occupied by him together with that residence as its garden or grounds up to an area of 1 acre, excluding the site of the dwelling-house.

Subject to the instructions in **Par. 3 to 25**, such a gain is exempt from Capital Gains Tax.

The term “dwelling-house” is not defined for the purposes of the section. It should however, be interpreted as including any premises at which the taxpayer normally resides even though he may also carry on his business on the same premises (**Par. 10**). Outbuildings which are “attached” to the house in the general sense should be regarded as part of the dwelling-house, but a building or part of a building which is a separate dwelling house should be excluded from the exemption.

The word “residence” has its normal meaning and for an individual this is a dwelling in which he or she habitually lives; in other words it is his or her home. It follows that actual physical occupation of the dwelling-house by the individual is necessary before a claim can be accepted that it is or was his or her residence. Whilst each case must depend on its own facts, a dwelling-house should not be regarded as an individual’s residence where the occupation is on a purely temporary basis. For example an individual may acquire a house and then decide not to make it his residence and before disposing of it he or she may arrange to make his or her home in a second house so that the first house clearly never was his or her residence. Nevertheless he or she may stay in the first house for a very short period in an attempt to show that it was his or her main residence. Exemption should not be granted in respect of such a period of nominal occupation. Similarly a few nights spent in a house whilst repairs and redecoration are carried out prior to its disposal would not be sufficient to establish a claim for exemption.

A “residence” need not be an owner-occupied house, etc., it may be -

- (i) rented accommodation, whether a house, flat or a single room, provided that it is a place of abode of some permanence;
- (ii) a club or hotel room where this is adequate as a “home” and is not merely a temporary arrangement;
- (iii) a weekend or holiday house or cottage or a house, etc., intended primarily for retirement but actually occupied intermittently;
- (iv) accommodation provided in connection with employment, etc.

Detailed instructions concerning the treatment of cases where more than one residence is occupied are contained at **Par. 16 & 17**.

The section applies not only to the disposal of the freehold of a house and land but also to an interest in such property. The exemption will thus apply where an occupier who is a tenant under a lease granted at a premium, assigns the lease or grants a sub-lease in circumstances which would otherwise render him or her liable to Capital Gains Tax.

- 3.3** Where part of the land occupied with a residence is exempt and part is not, the exempt part is to be taken as that which is most suitable for occupation with the house.

Where a dwelling-house (e.g., a farmhouse) is sold together with land not within the exemption, the exempt part of the gain should be computed as though the sale of the house (and garden) were a part disposal. The claimant should be asked for an apportionment of the sale price between the house (and garden) and other land (preferably by a valuer) and that apportionment should be considered in the same manner as all property valuations.

The example given below illustrates how a chargeable gain should be computed where the property sold is partially exempt and additions have been made to it. The computation is based on an apportionment of the total sale price between the exempt part, the part representing the expenditure on improvements, and the remainder. Alternatively, in a straightforward case (e.g., Example 5 of **Par. 25**), apportionment may be made by reference to simple arithmetical division.

Where the taxpayer or his or her agent objects to both these methods, a direct computation may be offered based on the sale price apportioned to the non-exempt part less the cost thereof. In that event, the claimant should be asked for an apportionment of both purchase and sale prices between the exempt and non-exempt parts (preferably by a valuer) and those figures should be considered in the same manner as all property valuations.

### Example

	€	
On 6 April, 1997, person X buys a house and farm for	300,000	(including expenses)
On 5 April, 2000, X incurs expenditure on the erection of new outbuildings of	80,000	
On 6 April, 2007, he sells the whole for	2,000,000	
The expenses of sale are	40,000	

It is agreed that the whole of the farmhouse should be regarded as a dwelling-house and is therefore exempt (see **Par. 10**).

The apportionment of the sale price is agreed as follows:-	€
Exempt house and garden	600,000
New buildings	150,000
Farm and other buildings	<u>1,250,000</u>
Sale price	2,000,000

The chargeable gain is computed as follows:

#### Overall gain

Sale price		2,000,000
Cost	300,000 x 1.232	369,600
New buildings	80,000 x 1.144	91,520
Expenses of sale		<u>40,000</u>
Overall gain		<u>501,120</u> 1,498,880

Exempt and non-exempt parts of the overall gain		
Sale price apportioned to house and garden		600,000
Less/ expenses of sale attributable thereto -		
40,000 x	<u>600,000</u>	
	2,000,000	<u>12,000</u>
		588,000
Cost of house and garden -		
300,000 x	<u>600,000</u>	
	600,000 + 1,250,000	<u>97,297</u>
Exempt part		490,703
Overall gain		1,498,880
Non-exempt part		1,008,177

balance of cost of farm after deducting cost of house and garden  
(€300,000 - €97,297) = €202,703.

- 3.4** The relief does not apply to land, which, immediately before the disposal, was not part of the garden or grounds of the house. An adjoining plot of land which, although in the same ownership, was never incorporated in the garden should not be regarded as qualifying. Land which is physically separated from the house (e.g., land on which a garage stands which is separated from the house by a public road) should, however, be included in the exemption when it is disposed of with the house, if it is “attached” to the house in the general sense and would normally be regarded by a purchaser as being part of the dwelling-house “set-up”.

Where part of the garden or grounds is disposed of but the house is retained, exemption is available if the total area of land occupied with the house is not more than one acre. If the total area of land before the sale was more than one acre, the sale of part of the land should be regarded as prima facie evidence that such land in excess of one acre was not required for the reasonable enjoyment of the residence (see **Par. 3**). Exemption is only to be denied in respect of a gain on the disposal of any land in excess of one acre. For instance, relief should be refused altogether to an individual selling half an acre out of a garden of 2½ acres but only to the extent of one-quarter of an acre to an individual selling half an acre out of a garden of 1¼ acres.

On the other hand where a dwelling-house, together with its garden or grounds is disposed of but some part of the land which was formerly part of the garden is retained and later sold to a different buyer, the exemption extends to the first disposal only. The second does not comprise the disposal of “a dwelling-house” or land which the person occupies with a residence.

- 3.5** The exemption also extends in certain circumstances to a dwelling-house occupied by an individual as life tenant under a settlement (see **Par. 20**). Relief, as appropriate, should be given only when the life tenant has actually resided in the dwelling-house at some time during the period of ownership.

- 3.6** The whole gain on a disposal is exempted if the residence has been occupied by the owner as his only or main residence throughout his period of ownership (ignoring the last 12 months). The 12 months is a period of grace intended to meet the case where the owner-occupier puts his house up for sale and moves out but cannot find a buyer immediately.

An interval which does not exceed 12 months between the acquisition and physical occupation of a house as an individual's only or main residence should be regarded as part of the period during which the house is occupied as his or her main residence, provided that the reason for the delayed occupation is:

- (a) the execution of alterations, redecorations, etc., or
- (b) the continuing occupation of the previous residence whilst arrangements are being made to sell it.

- 3.7** Where the house has not been occupied as the owner's principal private residence throughout the whole period of ownership (apart from the last twelve months), a fraction of the gain otherwise chargeable is to be exempted, the numerator of the fraction being the length of the part or parts of the period of ownership (including in any event the last twelve months) during which the house was the individual's only or main residence, and the denominator the length of the whole period of ownership.

See Example 2 in **Par. 25**.

- 3.8** In determining whether or not a house has been occupied throughout the period of ownership as a principal private residence, any periods of absence mentioned in sub-heads (a) and (b) below may be ignored so long as both before and afterwards the house has been occupied by an individual as his principal private residence. (A "principal" residence will include a residence agreed or determined to be such following a notice given by the taxpayer under **Section 604(8)** - see **Par. 16**).

- (a) Any period(s) of absence up to a maximum of 4 years during which the individual could not live in the house -
  - (i) because of the situation of his or her place of work, or
  - (ii) because of any condition reasonably imposed by his or her employer requiring him or her to live elsewhere for the purpose of his or her employment.

If such absences exceed 4 years, relief is given under this sub-head as if the house qualified for 4 years of the absences.

- (b) In addition to (a) above, any periods of absence (irrespective of length) throughout which an individual worked in an employment or office all the duties of which were performed outside the State.

For the purposes of this paragraph, “period of absence” means a period during which the dwelling-house or the part of a dwelling-house was not an individual’s only or main residence and throughout which he or she had no residence or main residence eligible for relief.

In the case of a husband and wife living together or civil partners living together a period of absence may be regarded as falling within (a) or (b) above, as appropriate, if the house is owned by one spouse or civil partner but the conditions of (a) or (b) are met by the other, provided that throughout the period neither spouse or civil partner had a residence or main residence eligible for relief.

In addition to the above, any period of absence during which both of the following circumstances apply:

(a) the claimant (who would normally live alone) was receiving care in a hospital, nursing home or convalescent home, or was resident in a retirement home on a fee paying basis; and

(b) the private residence remained unoccupied,

should be treated as a period of occupation and, provided that all the other conditions of **Section 604** are met, full principal private residence relief should be granted.

Where the residence was occupied rent free, during a period of absence as in 1(a) above, by a relative of the claimant, for the purpose of security or maintaining it in a habitable condition, the claim should be admitted.

**3.9** When an individual acquires land and has a house built on it, if the house is completed within a year of the date of acquisition and occupied as his or her only or main residence on completion, the period from the date of the acquisition of the land to the physical occupation of the house may be regarded as part of the period of occupation as main residence for exemption purposes.

Where the interval between the acquisition of the land and the occupation of the house exceeds the limit of 12 months, the computation method in **Par. 7** is modified to take account of the different periods of ownership. The gain should be apportioned between land and house by reference to their respective acquisition costs. The beginning of the period used in calculating the denominator of the fraction to be applied to the gain on the land is the date of acquisition of the land. In calculating the denominator of the fraction to be applied to the gain on the house it is the date of first occupation. The numerator in the **Par. 7** fraction remains unaltered except that a maximum of 12 months during which the house was being constructed may be added in calculating the numerator to be applied to the gain on the land.

This method has the effect of charging the pre-construction gain on the land only: See **Par. 25**, Example 6 (gain on house wholly exempt) and Example 7 (gain on house partly exempt).

- 3.10** Any part of the total gain accruing on the disposal of a dwelling house which relates to a part of the house used exclusively for the purposes of a trade, profession or vocation is not within the exemption.

Any private use fraction agreed for the purposes of Case I or II of Schedule D may provide a rough guide to the apportionment required by **Section 604(6)**. However, the section precludes relief only on parts of a house used exclusively for a trade, etc. Whilst a room used exclusively for business purposes would require a restriction under **Section 604(6)** a room used for business and residential purposes in equal proportions and for which an allowance of half the expenses had been given in a Case I or II, Schedule D, assessment would not be within **Section 604(6)**. Where a room is used almost entirely for business purposes, with only occasional private use, it should be contended that **Section 604(6)** applies to restrict relief, the small residential use falling to be disregarded on de minimis grounds; alternatively, it should be argued that the occasions of private use are changes of use within **Section 604(7)**, giving rise to a “just and reasonable” adjustment (see **Par. 13**).

In the case of a farmhouse, the question of whether any part is used exclusively for business purposes is one of fact. In what is probably the normal case where parts of the house, e.g., the farm kitchen, are used for business but are also used domestically, then the farmhouse should be treated as a dwelling-house regardless of the fact that the farmer receives an allowance for his or her business use of the premises in the computation under Case I of Schedule D. On the other hand, if there is exclusive use, e.g., of a dairy, then an apportionment is necessary and the exemption should be regarded as extending only to that portion of the farmhouse which was occupied partly or wholly as a residence.

See **Par. 3** for the instructions regarding the computation in a case of partial exemption.

- 3.11** **Section 604(6)** does not exclude from exemption the part of the gain accruing from any part of the private residence used for the purposes of the owner’s office or employment under Schedule E. No adjustment should therefore be made where, for example, a room is used as a study, even though an expenses allowance under Schedule E has been made in respect of the room.

Where, exceptionally, a substantial part of the residence is used exclusively as an office or for other purposes of the office or employment (i.e., where there is no residential use of that part of the house), the exemption should be restricted by reference to **Section 604(7) and (13)** (see **Par. 13**).

- 3.12** The exemption does not extend to a part of a dwelling-house which is let so that the income is assessable under Case IV or V of Schedule D. **Section 604(6)** does not apply, but the situation is governed by the general rule in **Section 604(2)(a)** that the exemption is confined to the gain on the part of the dwelling-house which is or has been the only or main residence of the owner.

In general, cases should be dealt with by reference to their own particular facts, but small adjustments need not be made where, for example, there is a lodger who has a private bedroom but takes his or her meals with the family, or a parent or a servant of the owner has the exclusive use of one or more rooms.

- 3.13** Where, at any time during the period of ownership and for whatever reason, there has been a change in the extent of the occupation as a private residence, the gain should be apportioned in any just and reasonable way (having regard to the different extents of residential occupation and the relevant periods) and the relief restricted accordingly.

The apportionment is a question of fact for negotiation. If the apportionment cannot be agreed, it will require to be determined by the Appeal Commissioner.

- 3.14** Where the owner has had different interests at different times, e.g., where an individual first acquired a lease of the property in consideration of a premium and subsequently acquired the freehold, his or her period of ownership dates from the date of acquisition of the lease, i.e., the first acquisition. If, however, his or her first occupation was by virtue of an annual tenancy (i.e., on which there was no expenditure in connection with the acquisition of an asset), his or her period of occupation would date from his or her acquisition of the freehold.

- 3.15** Any period before 6 April, 1974, should be left out of account in reckoning the period of ownership for the purposes set out in **Par. 5 to 8**.

- 3.16** Where a taxpayer has more than one residence (see **Par. 2**) for any period, the Inspector may reach agreement with him or her as to which of these is to be treated as his or her main residence, provided that the taxpayer gives notice in writing to the Inspector within 2 years of the **beginning** of that period (or by 5 April, 1976, if that is later). If a taxpayer owns one residence and has another in which his or her interest is not a chargeable asset (e.g., weekly rented accommodation or accommodation provided in connection with his or her employment) he or she may well be unaware of the desirability from his or her point of view of nominating as his or her main residence the house, etc., which he or she owns. In cases of this kind, when a disposal occurs, the taxpayer should be offered an extension of the time limit to a date which allows him a reasonable period to give notice under **Section 604(8)(a)** after his or her attention has been drawn to the possibility. Such a notice should be regarded as being as effective as if it had been made within the statutory 2 -year period.

Further notices in writing under **Section 604(8)(a)** to vary a previous agreement may be given, but each future notice is only effective for a period **beginning** not earlier than 2 years before it is given. Where, following a notice (or a further notice) agreement is reached, the taxpayer should be advised.



**Example**

In 1988, a person buys (and uses as his or her only residence) property A. In 1995, he or she buys a second property B, which he or she also uses as a residence but it is agreed with the Inspector that property A is his or her main residence.

In June, 2000 he or she contemplates selling property B at a substantial gain and because property A is not appreciating in value at the same rate, gives notice, and it is agreed, to have property B treated as his or her main residence. He/she should then be treated as if property B became his or her main residence in June, 1998 (i.e., 2 years before the second notice), and the gain should be apportioned in accordance with **Par. 7**.

If property A is later disposed of, the period of 2 years from June, 1998, should be excluded from his period of occupation of it as a private residence.

- 3.17** In default of agreement with the owner, the Inspector may determine which of the houses is the taxpayer's principal private residence, but the taxpayer has a right of appeal against the Inspector's determination.

In practice, the Inspector should not give formal notice of determination until the question becomes material, and then only if agreement cannot be reached. He should consider the information in the taxpayer's file (e.g., the address shown as the private residence in declarations on return forms, the address shown on dividend warrant counterfoils, etc.); and make any necessary enquiries of the taxpayer in an attempt to reach agreement.

If agreement cannot be reached, the Inspector should send a formal notice of determination to the taxpayer with a covering letter (and copies to the agent, if any) on the following lines:-

**“Capital Gains Tax: notice of determination of place of main residence.**

Where a taxpayer has two (or more) residences for any period, **Section 604(8)(a)**, provides that the taxpayer may agree with the Inspector of Taxes which one is to be treated as the main residence, provided that the taxpayer gives notice in writing to the Inspector within 2 years\* of the beginning of that period. In default of such notice, the Inspector may determine which of the houses is the taxpayer's principal private residence.

As I have not received such notice from you, I hereby determine your principal private residence to  
be \_\_\_\_\_

for the period \_\_\_\_\_

If you do not accept this decision, written notice of appeal should be given to me within 21 days of the receipt of this notice. Arrangements will then be

made for your appeal to be heard by the Appeal Commissioner.

Inspector's Signature

\_\_\_\_\_ Date"

\*Or longer period allowed by concession - see **Par. 16**, first sub-paragraph.

It is important that such a notice should not be issued until the normal process of negotiation has been exhausted.

- 3.18** In the case of a husband and wife or civil partners living together -
- (a) only one residence can qualify for exemption under **Section 604** and a notice under **Section 604(8)** is required from both spouses or civil partners (**Par. 16**);
  - (b) if a residence passes from one to the other (whether by sale, gift or on death), the period of ownership should be treated for the purposes of **Section 604** as running back to the date of acquisition by the one who first acquired the house;
  - (c) either may appeal against a determination by the Inspector under **Section 604(8)** (see **Par. 17**)
- 3.19** For cases in which a husband and wife or both civil partners have together more than one residence, see **Par. 18**.
- 3.20** The exemption extends to a gain accruing to the trustees of a settlement where the house has been the only or main residence of a person entitled to occupy it under the terms of the settlement, i.e., a life tenant (see **Tax Instruction 19.3.5 Par. 13**).

Where an individual is not entitled under the terms of a settlement to occupy the house, relief should nevertheless be given where the individual uses the house as his or her main residence by permission of the trustees and is entitled under the settlement to the whole income from the residence or from its proceeds on sale.

A notice under **Section 604(8)(a)** with a view to agreeing to adopt the house as the main residence (**Par. 16**) of the person entitled (or permitted) to occupy the house, must be given jointly by that person and the trustee.

- 3.21** Where relief is claimed by the personal representatives of a deceased person on the disposal by them, during the administration period, of what is claimed to be a principal private residence, the matter should be considered on the basis of the specific circumstances of the case.

### **Residence provided for a Dependent Relative**

**3.22 Subsection (11) of Section 604** extends the scope of the relief available to an individual on the disposal of a residence (including a garden or grounds not exceeding one acre) which he or she had provided for use by a dependent relative. The requirements of **Section 604** as regards periods of occupation and use of the premises by the relative apply as they would to an individual who was owner/occupier.

‘Dependent relative’ in relation to an individual means:

- A relative of the individual, or of the husband or wife of the individual, who is incapacitated by old age or infirmity from maintaining himself or herself or
- A person who is the widowed father or mother (whether or not incapacitated by old age or infirmity) of the individual or of the spouse of the individual or
- a person who is the father or mother of the individual or of the wife or husband of the individual who is a surviving civil partner and who has not subsequently married or entered into another civil partnership.

The term relative is not defined and it should be given its widest possible meaning. In determining whether or not relief is due, no account should be taken of the income of the relative.

It is a condition of the relief that the dwelling-house must have been the sole (not merely the main) residence of the relative. It is a further condition of the relief that the dwelling-house should have been provided gratuitously (rent-free and without any other consideration). Accordingly, any period during which the relative paid a rent to the owner, or occupied the residence in consideration of performing services for the owner, will not count as a qualifying period.

It is a term of the relief that only one dwelling-house provided by a claimant for a dependent relative can qualify at any one period of time. A husband and wife living together are treated as separate individuals for the purposes of the relief for a dependant’s residence. In the event, therefore, that a husband provides a residence for a dependent and during the same period of time, a residence is also provided for a dependent by his wife, both houses may, on disposal, qualify for the relief, provided the other requirements of **Section 604** are fulfilled. It should be noted that:-

- (a) the separate treatment of husband and wife must be strictly preserved - the houses must be genuinely provided by the husband and the wife respectively, not both establishments by one or other of them,
- (b) as regards their own principal private residence, the husband and wife may still qualify for the relief in respect of one but only one principal private residence at any one time.

The relief to be given, on a claim being made by the disponer, is such relief as would be given under **Section 604** in respect of the dwelling-house and grounds if the dwelling-house (or the relevant part thereof) had been the disponer's only or main residence during the period of residence by the dependent relative.

Furthermore, any relief given under the subsection does not affect the relief available to the disponer, under **Section 604**, in respect of his or her own residence and is additional to any relief he or she could claim in respect of the house in question in respect of any period during which he or she lived in the house prior to its occupation by the dependent relative.

- 3.23** **Subsection (12)** provides that relief under **Section 604** may be withdrawn or modified where the disposal is for a consideration in excess of the current use value of the property disposed of. This would be "development land" as defined in **Section 648**. There may, for example, be situations in which a portion of a garden is sold to a developer who will build a property on this land. Where a parent transfers a garden site to a child in order for the child to build a dwelling house on, this will also be a disposal of "development land", although relief may apply to a child (as defined) under **Section 603A**. Quite often this will occur in urban areas where a garden corner site is disposed of. This represents a disposal of "development land" and will typically be liable to Capital Gains Tax. However, where the land being sold is also part of the "gardens or grounds up to an area...not exceeding one acre" an element of PPR relief will be given in respect of the current use value of the land. The method of computation used is described in **Example 8**.

In the majority of cases the disposal of land comprising a taxpayer's garden will be liable to capital gains tax in the usual fashion. However, where the transaction(s) engaged in suggest that a trade is being carried on in respect of development of the land Income Tax rules may apply.

- 3.24.1** As set out in **Subsection (14)** relief under **Section 604** does not apply if the house was acquired wholly or mainly for the purposes of realising a gain from a disposal of it or to so much of a gain as is attributable to any expenditure incurred during the period of ownership with the object of making a gain on disposal of the house, e.g., where a private residence is converted into flats in the 12 months of grace at the end of the period of actual occupation.
- 3.25** In each of the following Examples 1, 2, 3 and 4, an individual buys a freehold house for €50,000 (including expenses) on 1<sup>st</sup> April 1990 and moves in immediately to occupy it as his or her home. In order to ensure accurate calculations, it may be necessary to perform the computation in terms of number of months of occupation/non-occupation.

#### **Example 1**

An individual lives in the house continuously until 31 May, 2007. Having offered it for sale in April, 2007, is unable to sell it until 31

December, 2007 when it fetches €300,000 (after deducting expenses of sale). The individual had no other private residence from 1 April, 1990, to 31 May, 2007.

The period from 1 June to 31 December, 2007, being less than 12 months, is ignored (**Par. 6**) and none of the gain is chargeable.

### Example 2

An individual moves out of the house on 30 September, 2004, into rented accommodation. The house is let until it is sold for €290,000 on 1<sup>st</sup> April, 2008. The gain is as follows:-

		€
Proceeds		290,000
Cost	€50,000 x 1.442 =	<u>72,100</u>
Gain		217,900

Part of the gain is not chargeable (see **Par. 7**), the fraction being -

Last 12 months of ownership plus	<u>1 year + 14.5 years</u>
earlier periods occupied	
<u>periods occupied</u>	15.5 years
Period of ownership	18.5 years

The result is:

		€
Gain		217,900
Not chargeable	$\frac{15.5}{18.5} \times 217,900$	<u>182,565</u>
Chargeable gain		35,335

### Example 3

An individual lives in the house continuously until 30 September, 1995. From 1 October, 1995, until 30 September, 1999, the individual lives elsewhere in the State to be near a place of work. From 1 October, 1999 to 30 September, 2000, the individual lives in a rented flat for reasons unconnected with employment. On 1 October, 2001, the individual returns to the house and lives in it until it is sold on 31 December, 2005 for €250,000.

The total period of absence is 6 years. The period of one year from 1 October, 1999, to 30 September, 2001, does not qualify for relief and the total period of absence so qualifying is therefore the maximum of 4 years under **Par. 8 (a)(i)**. In this case the period the individual was in a dwelling house other than his or her PPR happens to coincide with the maximum, 4 year period allowed, any additional period of time would not have been deemed to be a period of occupation of his other PPR.

The computation is:

		€
Proceeds		250,000
Cost	€50,000 x 1.442	<u>72,100</u>
Gain		177,900
Period of ownership:	15.75 years	
Period of absence:	<u>6</u> years	
Period of occupation	9.75 years	
Add: 4 years	<u>4</u>	
	13.75 years	
Exempt	<u>13.75</u> x €177,900	<u>156,202</u>
	15.66	
Chargeable gain:		21,698

#### Example 4

An individual lives in the house until 31 March, 1991. From 1 April, 1997, to 31 March, 2003, the individual is required by his or her employer to live in a different part of the country in accommodation provided by the employer. From 1 April, 2003, to 30 September, 2005, the individual lives in rented accommodation because the house is let for the whole period from 1 April, 1991, to 30 September, 2005. On 1 October, 2005, the individual moves back into the house and occupies it as his or her only residence until it is sold on 31 March, 2006, for €200,000.

The period spent in accommodation provided by the employer exceeds 4 years and the maximum period qualifying under **Par. 8(a)(ii)** is four years. The remaining period of absence during which the individual lived in rented accommodation does not qualify. Thus, out of the total period of absence of 8½ years, only 4 years, qualify under **Par. 8**.

The fraction of the gain not chargeable is:

$$\frac{\text{Last 12 months of ownership} + \text{earlier periods}}{\text{of owner-occupation} + 4 \text{ years}} = \frac{1 + 1 + 4}{16}$$

The computation is:

		€
Sale price		200,000
Cost	€50,000 x 1.442	<u>72,100</u>
Gain		127,900
Exempt	<u>6</u> x 127,900 =	<u>47,962</u>
	16	
Chargeable gain		79,938

#### Example 5

On 1 June, 1996, a grocer buys for €400,000 (including expenses of purchase) freehold premises originally designed as a dwelling-house but which had later been adapted to become a small shop with living accommodation. The grocer lives on the premises, has no other private residence and trades from the shop from 1 June, 1996, to 31 May, 2008, when the whole property is sold with vacant possession for €900,000 (after deducting expenses of sale).

The part of the gain arising on the living accommodation is not chargeable. If that part is agreed at two-thirds, then one-third of the gain is chargeable to tax (see **Par. 10**).

The computation is:-

		€
Sale price		900,000
Cost	€400,000 x 1.251	<u>500,400</u>
Gain		399,600
Exempt	2/3 x €399,600 =	<u>266,400</u>
Chargeable gain		133,200

### Example 6

In June 2000, an individual bought a piece of freehold land of less than one acre for €200,000. In June 2003, construction begins thereon of a house for the landowner's occupation. This is completed at a cost of €240,000 and occupied in June 2004. The house and the land are sold in June 2008, for €1,000,000 and as the house is the owner's main residence from June 2004, the whole of the gain on the house itself is exempt. The chargeable gain on the land is calculated as follows:

		€	€
Sale proceeds			1,000,000
Cost of land	200,000 x 1.144 =	228,800	
Cost of house	240,000 (Building commenced '03, no indexation applies)	<u>240,000</u>	<u>468,800</u>
Overall gain			<u>531,200</u>
Gain apportioned to land	$\frac{228,800 \times 531,200}{468,800} =$		259,254
Exempt fraction	$\frac{(\text{June, 2003} - \text{June 2008})}{(\text{June, 2000} - \text{June, 2008})} = \frac{5}{8}$	X 259,254	162,034
Chargeable gain			97,220

### Example 7

In June 2000, an individual bought a piece of freehold land of less than one acre for €200,000. In June 2003, construction begins thereon of a

house for the individual's occupation. This is completed at a cost of €240,000 and occupied as the individual's main residence from June 2004, until June 2005. For the 12 months from June 2005, to June 2006, the individual's main residence is elsewhere. The house becomes the individual's main residence again in June 2006 until June 2008, when both the house and the land are sold for €1,000,000. The chargeable gain is calculated as follows:

	€
Overall gain (as in Example 6 above)	531,200
Gain apportioned to land (as in Example 6 above)	97,220
Gain on house	<u>433,980</u>
Gain on land	97,220
Exempt percentage: 50% of 97,220	
(June, 2003 - June, 2005 (2 years) + June	= $\frac{4}{8}$
<u>2006 - June 2008 (2 years)</u>	8
Total Period 8 years	
Chargeable gain on land:	46,810
Gain on house	
Exempt percentage: 80% of 433,980	= 347,184
(June, 2003 - June 2005 (2 years) + June	$\frac{4}{5}$
<u>2006 - June 2008 (2 years)</u>	5
Total Period 5 years	
Chargeable gain on house:	= 86,795
Chargeable gain on land =	46,810
Chargeable gain on house =	86,795
Total Chargeable Gain	133,606

### Example 8

Occasions may arise where an individual will sell off a portion of their garden, typically to a developer who will build a residential unit on the land. Such disposals will be for a consideration in excess of the current use value of the land and as such will be a part disposal of "development land". Assuming that the land sold is part of the area of up to one acre specified in s604 (2) (b) a certain amount of PPR relief will be allowed.

For the purposes of the following, it can be assumed that an individual sells a portion of his/her garden for €40,000. The current use of the site is €2,000. The whole property originally cost €100,000. The market value of the property (dwelling house and remainder of garden after sale) is €360,000.



The chargeable gain is calculated as follows:

**Step 1.** Calculate the gain arising using the part disposal rules and ignoring any development land implications.

		€
Proceeds		40,000
Cost		
100,000 x	$\frac{40,000}{360,000 + 40,000}$	10,000
Gain		<u>30,000</u>

**Step 2.** Calculate a notional gain, as if the site was sold for current use value. This is the principal private residence relief.

Proceeds (deemed current use value)		2,000
Cost		
100,000 x	$\frac{2,000}{360,000 + 2,000}$	<u>552</u>
Principal Private Residence relief		1,448

**Step 3.** Deduct 2 from 1 above. This is the chargeable gain.

Gain		25,000
Principal Private Residence relief		<u>1,448</u>
Chargeable Gain		23,552

On a subsequent disposal of the remaining property the base cost of the land disposed of will be the original cost less the cost allocated to this disposal.