Inland Revenue

Notes on PARTNERSHIP DISPOSAL OF CHARGEABLE ASSETS

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HELP SHEETS AND LEAFLETS

Help Sheets and leaflets give more detailed information about particular tax rules. You might find them useful even though their principal purpose is to help people with their own, personal Tax Return. They explain about the additional information partners may need to calculate their individual chargeable gains. To obtain copies ask the Orderline.

- *IR280: Rebasing - assets held at 31 March 1982*
- *IR281: Husband and wife, divorce and separation*
- *IR282: Death, personal representatives and legatees*
- *IR283: Private residence relief*
- *IR284: Shares and Capital Gains Tax*
- *IR285: Share reorganisations, company take-overs and Capital Gains Tax*
- *IR286: Income Tax losses for shares you have subscribed for in unlisted trading companies*
- *IR287: Employee share schemes and Capital Gains Tax*
- *IR288: Partnerships and Capital Gains Tax*
- *IR289: Retirement relief and Capital Gains Tax*
- *IR290: Business asset roll-over relief*
- *IR291: Reinvestment relief – shares acquired before 6 April 1998*
- *IR292: Land, leases, and the valuation of land and Capital Gains Tax*
- *IR293: Chattels and Capital Gains Tax*
- *IR294: Trusts and Capital Gains Tax*
- *IR295: Relief for gifts and similar transactions*
- *IR296: Debts and Capital Gains Tax*
- *IR297: Enterprise Investment Scheme and Capital Gains Tax*
- *IR298: Venture Capital Trusts and Capital Gains Tax*

Filling in the Partnership Disposal of Chargeable Assets Pages

Gather together the material you need, such as:

- contracts for the purchase or sale of assets
- invoices for allowable expenditure.

You must complete these Pages if the partnership disposed of any chargeable assets in 1998-99.

You may need to provide each partner with additional information, for example, the incidental costs of buying or selling an asset, so that they can calculate their individual chargeable gains. Details of the information the partners may need when filling in their own Tax Returns can be found in the Capital Gains Notes and Help Sheets for the personal Tax Return. To obtain copies ask the Orderline.

Section 1 - An introduction to Capital Gains Tax

These Notes are a simplified summary of the Capital Gains Tax law as it applies in some common cases. If you are in any doubt about their relevance to your partnership, ask your Tax Office or tax adviser.

Chargeable assets

Any form of property wherever it is situated may be a chargeable asset. The most common assets include:

- stocks and shares
- land and buildings
- business assets such as goodwill.

Some assets are exempt from Capital Gains Tax but most of these exemptions are unlikely to apply to partnership assets. If you are in any doubt, ask your Tax Office or tax adviser.

What is a chargeable gain?

A chargeable gain is made when something a person owns (an asset):

- is wholly or partly disposed of (or treated as disposed of), **and**
- its value has increased since it was acquired, or since 31 March 1982, if that is later, **or**
- because of a claim to relief you are treated as having acquired the asset at a reduced value and the proceeds are greater than this.

A person may also be treated as making a gain in other circumstances, for example, where:

- a gain on an earlier disposal of an asset has been deferred, and the deferral period has come to an end, **or**
- the value of an asset has increased by a transfer of rights, or by any other means that would not by itself be regarded as a disposal, **or**
- a wasting asset is disposed of that has not diminished in value as quickly as was expected, **or**
- a capital sum is derived from ownership of an asset.

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Notes on PARTNERSHIP DISPOSAL OF CHARGEABLE ASSETS

A partnership asset will normally be owned jointly by the members of the partnership. When an asset is disposed of, each partner may make a chargeable gain on the disposal of their share of that asset. But the gains made by each may vary; for example, because one partner owns a smaller or larger share of the asset than the other partners, or because one partner has owned a share for a shorter or longer period than the other partners.

Because each gain will depend on the partners' individual circumstances there is no such thing as a 'partnership chargeable gain'. You are merely required to make a return of the information included in a partnership account for the period from 6 April 1998 to 5 April 1999, namely the proceeds from the disposal of the partnership asset.

Exempt assets

Exemptions that might apply to the partnership assets include:

- motor cars
- UK Government stocks (gilts) and certain corporate bonds
- life assurance policies and deferred annuity contracts, unless purchased for a third party.

If the only disposals are of assets in the list above, you do not need to complete these Pages.

Gains from the disposal of personal effects or goods, each of which was worth £6,000 or less when disposed of, are exempt. This is dealt with in more detail in *Help Sheet IR293: Chattels and Capital Gains Tax*; ask the Orderline for a copy.

Section 2 - Information about disposals

Disposals

Tax is payable on gains from the disposal of chargeable assets.
A disposal will occur when the partnership:

- sells, **or**
- gives away, **or**
- exchanges an asset, **or**
- receives a capital sum from the ownership of an asset, **or**
- the value of an asset it owns has been increased at the expense of an asset owned by some other person.

A capital sum is a sum that is not part of the partnership's taxable income.

The tax due, if any, arises on the disposal of the partners' individual shares in the partnership asset. This is a matter for individual partners.

There are a number of special rules for chargeable disposals which, although not relevant to the Partnership Tax Return, may need to be considered by individual partners. These include:

- claims that an asset has become of negligible value, **or**
- disposals of shares in partnership assets (without disposal of that asset itself), **or**
- calculation using the market value of an asset rather than the actual disposal proceeds ('market value' is defined on page PAN3 of these Notes), **or**
- part disposal of an asset, **or**
- disposals to a connected person ('connected person' is defined on page PAN3 of these Notes).

Building society mergers, conversions and take-overs

If the partnership has:

- received cash as a result of a merger of two or more societies, **or**
- received cash, or been issued with shares, or received both cash and shares, as a result of either
  - a conversion of a building society to a company, **or**
  - a take-over of a building society by a company

there may be liability to either Income Tax or Capital Gains Tax. The building society may be able to tell you whether there is any tax liability. If not, ask your Tax Office or tax adviser.

Company reconstructions and take-overs

If the partnership has exchanged shares or securities of a company for other shares or securities, as part of a company reconstruction or take-over, the partners will be treated as having acquired the new shares or securities, at the same price, and on the same date, as the old. It will not be counted as a disposal for tax purposes.

The partnership may be treated as making a disposal if the company reconstruction or take-over is not carried out for commercial reasons, or is made in order to avoid tax. Companies can apply in advance to the Board of Inland Revenue for clearance from these anti-avoidance rules. The clearance will only be valid if the take-over, reconstruction or amalgamation is carried out in accordance with the clearance application.

If you think that the partnership has obtained shares or securities as part of a company reconstruction or take-over, or you need advice about the anti-avoidance rules, ask the Orderline for *Help Sheet IR285: Share reorganisations, company take-overs and Capital Gains Tax*.

What is the date of disposal?

If the disposal was made by way of a contract, the date of disposal is usually the date of the contract.

In a small number of cases the contract may be conditional. This will be so if one or more conditions have to be met before the contract becomes binding. In these cases the date of disposal is the date on which the last of the conditions is met.

In other cases the date of disposal will usually be the date when ownership of the asset was effectively transferred.

There may be exceptions, particularly if the asset is land that has been compulsorily purchased.

Example 1

The partnership sells a piece of land in a contract dated 2 April 1999. The land was conveyed to the purchaser on 2 May 1999. The disposal is treated as taking place on 2 April 1999. This date falls in the tax year ending on 5 April 1999 and you should return the disposal in the Partnership Tax Return for that year.

What are the disposal proceeds?

The total amount of disposal proceeds may include:

- cash payable now or in the future, **or**
- the value of any asset received in exchange for the asset disposed of, **or**
- the right to receive future payments.

Any amount received in cash or which can be turned into cash should be included in the disposal proceeds. But you should not include anything that is partnership income, with the exception of any premium received for the grant of a sub-lease out of a short lease.

Example 2
The partnership exchanges a piece of land worth £30,000 for a painting worth £33,000. The disposal proceeds of the land are £33,000, the value of the consideration received.

The distinction between future payments and the right to receive future payments is important when the partnership does not receive all of the money it is entitled to straight away.

If the amount to which the partnership is entitled is known or can be calculated, you should bring in the full amount. No allowance can be made for the possibility that the whole sum may not be paid.

However, if it becomes clear later on that you will never receive some part of the total amount originally due, the calculation of the gain can be adjusted.

If you receive the total amount due in instalments over a period exceeding 18 months, you may not have to pay the tax which is due on the gain in one sum. Ask your Tax Office for details.

Example 3
The partnership sells shares in a company in July 1998 for £50,000, together with a sum equal to 10% of the profits made by the company in the year ended 30 June 1998. The accounts for the company have not yet been prepared for that year. The disposal proceeds are £50,000 plus the sum the partnership is entitled to. Accounts could be prepared and the sum could be calculated.

If some part of the amount to which the partnership is entitled cannot yet be calculated when the disposal is made because some factor is not yet known, you should include the value of the right to that future sum.

When the partnership receives the amount it is entitled to, there will be a further disposal of that right.

Example 4
The partnership sells land for £40,000 and will also be entitled to receive 50% of any increase in the value of the land if the purchaser is able to obtain planning permission for a housing development. When the disposal is made you cannot know whether planning permission will be granted or what effect that will have on the value of the land. So you do not know how much the partnership will finally get. The disposal proceeds are £40,000, together with your estimate of the value of the right to further money.

In some circumstances, the amount that the partnership is to receive is taken to be the market value of the asset it has disposed of. Market value will apply where the disposal is, for example:

- to a connected person, **or**
- otherwise than by a bargain made at arm's length, for example, a gift (unless 'no gain/no loss' applies), **or**
- wholly or partly for consideration which cannot be valued.

A disposal which is otherwise than by way of a bargain made at arm's length, is a disposal in which one or other of the parties did not intend to get the best commercial return that could have been obtained. It is a disposal in which one of the parties intends in that transaction to confer a gratuitous benefit on the other.

Example 5
The partnership sells land worth £40,000 to the wife of a partner for £25,000. The disposal proceeds are £40,000, the market value.

What is meant by 'market value' and 'connected persons'

Market value

In some cases the price the partnership paid when it obtained the asset or the price it received when it disposed of the asset, may be replaced by the market value of the asset in working out the gain or loss.

The market value is the price an asset might reasonably have been expected to fetch on the open market at the date of that acquisition or disposal.

There is a special rule that applies if the partnership has disposed of assets by a series of linked disposals to connected persons so that the value of the assets transferred taken separately is less than their combined value. When calculating the gain the value of each separate asset is replaced by a proportion of the total market value of the assets in the series. Any disposal which took place more than six years before the next disposal in the series can be excluded.

Example 6
The partnership owns the freehold interest in a piece of land. That interest is worth £100,000. Four years later the partnership grants the brother of one of the partners a lease over that land. The lease is worth £20,000. The partnership then sells the brother the freehold reversion for its market value of £60,000. Because the freehold and the lease considered separately are worth less than the unrestricted freehold, the partnership has only realised a total of £80,000 in disposing of land worth £100,000. Because this was a series of transactions, the £20,000 the partnership got from the grant of the lease must be replaced by £25,000 in working out the gain. The £60,000 which the partnership got for the freehold reversion must be replaced by £75,000 in working out any gain on that disposal.

In the case of shares or securities listed on the Stock Exchange the market value is the lower of:

- a figure one-quarter up from the lower of the two prices in the quotation for the relevant day, **and**
- the figure halfway between the highest and the lowest prices of recorded bargains for that day.

If you make an estimate of market value, give details on Page PA2 of the Disposal of Chargeable Assets Pages. We may need to check if that value is accurate. We approach specialist valuers to value some assets, mainly unlisted shares, land, goodwill and works of art. You will be able to discuss the values you have used with our valuers, and if we cannot agree after discussion, the partners will be able to appeal to an independent tribunal.

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Notes on PARTNERSHIP DISPOSAL OF CHARGEABLE ASSETS

- Connected persons

If an asset is disposed of to a connected person, the price paid or received is replaced by the market value of the asset in working out any gain or loss on the disposal of that asset.

Connected persons are:

- the husband or wife of a partner
- a partner's brother or sister, or the partner's spouse's brother or sister
- a partner's parents, grandparents or other ancestors or the partner's spouse's parents, grandparents or other ancestors
- a partner's children and other lineal descendants or the partner's spouse's children and other lineal descendants
- the husbands or wives of any of the relatives listed above
- business partners and their relatives, together with the husbands and wives of those partners, except for genuine commercial acquisitions or disposals of partnership assets
- any company controlled either by a partner or any of the persons listed above
- the trustees of a settlement of which a partner, or a still living individual connected with the partner, is the settlor.

If a loss is made on the disposal of an asset to a connected person, that loss can only be set against gains the partner makes on disposals to that same connected person.

Section 3 - Filling in Pages PA1 and PA2

Filling in Page PA1

Fill in Page PA1 to give details about the partnership's disposals in the year ended 5 April 1999. The information you provide helps us to decide if we need to ask you any further questions about the Partnership Tax Return. If there is not enough space on the Page for all your disposals, photocopy it before filling it in and continue on the photocopy.

Column 1
Enter in this column details of each chargeable asset the partnership has disposed of. For example, if the partnership disposed of land or buildings, give the address and a description of the property. If the partnership disposed of shares, give the name of the company, the type of shares disposed of and how many were disposed of.

Column 2
This column is only relevant if the asset you listed in column 1 is shares in a company.

Tick the box in this column unless the shares were listed on the Stock Exchange Daily Official List (SEDOL) throughout the period you held them. You will also need to tick the box if you obtained the shares on a share exchange, or other company reorganisation, and the shares you originally held did not appear on SEDOL throughout the period you held them.

Column 3
Enter in this column the total amount of disposal proceeds the partnership has received or will receive from each disposal. Page PAN3 explains what to include in disposal proceeds.

box 4.1 Enter the total proceeds from all disposals in box 4.1. Make sure you enter the gross disposal proceeds. Do not deduct incidental disposal proceeds. Deductions (for their share of the costs) should be made by the partners in their personal Tax Returns.

Column 4
Use this space to provide other information. For example:

- why valuations have been used
- whether value has been transferred that is chargeable under Section 29 or 30 TCGA 1992
- whether there has been a part disposal
- whether there has been an exchange of shares or securities in a company reconstruction or take-over.

Filling in Page PA2

You may use Page PA2 to provide any additional information you think we may need to understand the entries on Page PA1.

Section 4 - Transfer of information to the Partnership Statement (Full)

Transfer the total proceeds from all disposals of chargeable assets to box 30 in the Partnership Statement (Full).

You may need to allocate shares of the proceeds from each disposal to the appropriate partners before you can complete the rest of the Partnership Statement. Even if you do not need to do this to complete the Partnership Statement, the partners will need this information to calculate the separate chargeable gains arising, if any, on the disposal of shares in different partnership assets. See the notes on pages 13 to 15 of the Partnership Tax Return Guide for further details, including an example.

These notes are for guidance only, and reflect the position at the time of writing. They do not affect any rights of appeal.