



**ITI Submission to Revenue Seeking Further Clarification on
Section 980 Tax & Duty Manual (Part 42-03-01)
Interaction of Section 980 and consideration applying under Section 615**

05 August 2020

We are asking Revenue to consider including the matter below when updating the [Tax & Duty Manual](#) on section 980 TCA 1997. This relates to a point that first arose at the TALC Direct/Capital Taxes meeting on 28 June 2016 but was mentioned again by Revenue at the TALC Direct/Capital Taxes meeting on 13 February 2020 in the context of Revenue's guidance on section 980 TCA 1997.

At the 2016 meeting, Revenue advised that in their view the consideration that is applied in determining if a CG50 is required under section 980 TCA 1997 is the vendor's deemed consideration that applies to a disposal that gives rise to a no gain/no loss position for the vendor under section 617 TCA 1997. This is now reflected in TDM 42-03-01. The TDM provides that where section 617 TCA 1997 applies to a disposal, the amount of consideration for the purposes of section 980 TCA 1997 is the amount of consideration deemed under section 617 TCA 1997. This is explored in the TDM in a series of short examples: <https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-42/42-03-01.pdf>

We understand that Revenue's position with regard to a transfer under section 615 TCA was not discussed in detail at the 2016 meeting and Revenue commented at the meeting that practitioners should make a separate submission in relation to section 615 TCA 1997 – this appears to be confirmed in the minutes of the meeting: <https://www.revenue.ie/en/tax-professionals/documents/talc/direct-and-capital-taxes/minutes-0616.pdf>

At the February 2020 TALC Direct/Capital Taxes meeting, Revenue confirmed that section 980 TCA 1997 should not apply to a disposal of an asset where there is deemed consideration under a gift and we understand that this confirmation would be included in the next iteration of Revenue's TDM on section 980 TCA 1997. This is on the basis that it is not possible to operate withholding tax on a consideration amount where there is nil or nominal actual consideration arising on the disposal.

At that meeting a comment was made by Revenue distinguishing this from Revenue's position relating to deemed consideration arising on an intra-group transfer of assets that results in a no gain/no loss position under section 617 TCA 1997 as well as the no gain/no loss treatment of a disposal under section 615 TCA 1997.

We are seeking confirmation, similar to that provided in respect of section 617 could also be provided in respect of section 615 in the TDM (i.e., that the consideration that applies for the purposes of section 980 in the context of a no gain/ no loss disposal under section 615 is the amount of consideration deemed under section 615 TCA 1997.)