



Using a life assurance savings plan to fund for Gift Tax - LIFE ADVISORY SERVICES

Relief is given in Section 73 of Capital Acquisitions Tax Consolidation Act 2003 to allow people to plan for the payment of gift tax (Section 73) in a tax efficient way.

If a life assurance savings plan is put in place to provide for the 'relevant' tax, Revenue will not charge Capital Acquisitions Tax on the plan proceeds if the money is actually used to pay gift tax.

What is the benefit of your client taking out a Section 73 savings plan?

The benefit of using a 'qualifying' life assurance savings plan to fund for the payment of gift tax is that, as long as certain conditions are met, the proceeds of the plan when used to pay your clients beneficiaries gift tax bill, will not increase their gift tax liability.

Whereas, if your client gives their beneficiaries additional money to pay the gift tax bill from their deposit account, this will be seen by Revenue as an additional gift, and will increase the beneficiaries' tax bill.

	Bank Account proceeds	'Special' Section 73 plan
Value accumulated	€100,000	€100,000
Tax payable	€33,000	Nil*
Left to pay tax	€67,000	€100,000

* If this plan is used to pay the relevant gift tax arising on the gift being made, gift tax will not be payable on the plan proceeds.

How the Section 73 relief from gift tax works in practise is shown below

John and Mary are married. Their estate is valued at €1,000,000. John owns a 'rental property' company valued at €500,000 which he has decided to gift to their son Paul in 8 years' time.

Total gift	€ 500,000
Tax free threshold	€ 225,000 (assuming no previous gifts / inheritances received)
Taxable gift	€ 275,000
Taxable at 33%	€ 90,750 or nearly 18% of the value of the gift taken in tax

Therefore, when John gifts the property company to Paul, he will lose 18% of the value of the gift as he will have to pay €90,750 in gift tax.

To fund for this tax, John could affect a (Section 73) savings plan, which would pay out €90,750 in 8 years time. This is then used to clear Paul's gift tax bill. If John had given Paul the €90,750 from his bank account this would have increased Pauls gift tax bill.

Who owns the Section 73 savings plan?

The person leaving the gift is the proposer / plan owner and owns the Section 73 savings plan.

Who pays the premium on the Section 73 savings plan?

The person giving the gift must pay the premium on the plan.

Can my client use an existing savings contract as a Section 73 savings plan?

No, an existing contract cannot be switched to a Section 73 plan. The plan must be specifically endorsed as a Section 73 contract at date of commencement.

Can both Section 73 and Section 72 relief be availed of under the one plan?

For the proceeds of a policy to be eligible for both reliefs the contract would need to have both a life cover element AND a savings element. To qualify for relief from inheritance tax (section 72 relief) the plan must have life cover of at least 8 times the annual premium, and if the plan is ALSO to qualify for relief from gift tax (section 73 relief) there must be a unit linked savings element to the plan.

So, if there is no savings element on a protection plan it will not qualify for relief from gift tax (section 73 relief) And if there is not the minimum amount of life cover on a savings plan it will not qualify for relief from inheritance tax (section 72 relief)

What happens if my client dies during the lifetime of the Section 73 savings plan before the gift is made?

If your client dies before the end of the minimum 8-year period, the cash value of the plan will not qualify for relief in the payment of either gift tax or inheritance tax. Indeed if the owner died after the 8 years, and had not used the funds to pay gift tax before death, the value of the plan would **not** be exempt from inheritance tax.

What happens if there is an excess amount on the Section 73 plan?

Any excess over the gift tax liability that is not used to pay gift tax remains with the plan owner as it is their money.

Will exit tax be deducted on the Section 73 plan?

Yes, it is still a normal savings plan. Exit tax will apply on certain chargeable events if there is any investment profit (gain) on the plan.

Are there certain restrictions to these plans?

There are some revenue restrictions and requirements. If these rules are not satisfied for any reason, the plan will lose its exemption from gift tax and could actually increase the beneficiaries' liability.

For more detailed information on the Revenue conditions for these types of plans please see the *Main Revenue conditions below*

- ⇒ The plan must be expressly effected under the provisions of Section 73; normally the plan is endorsed to this effect when it is issued.
- ⇒ To qualify for Section 73 relief the person who owns the plan must also pay the premium.
- ⇒ A joint-life plan can only be taken out by a married couple or registered civil partners.
- ⇒ You must continue to make regular premium payments for at least eight years.
- ⇒ If you stop paying regular premiums, even after the eight-year period, you cannot restart.
- ⇒ Your premium cannot increase or reduce by more than 50% in any continuous eight-year period unless as a result of a plan review by the life company.
- ⇒ Once regular premiums have been paid for at least 8 years, any encashment from the plan after the plan has been in force for 8 years will be exempt from gift tax when used to pay gift tax within one year of making the encashment.

We advise that your client seeks professional tax and legal advice as the information given is a guideline only and does not take into account your client's personal circumstances.

Information is correct as at April 2015 but is subject to change.

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