CAPITAL ACQUISITIONS TAX

A customer guide

This is an outline of the current tax and legal issues that may need to be taken into account when you are considering Inheritance Tax planning and it is based on an interpretation of current legislation and Revenue practice.

It is recommended that you seek professional legal and tax advice to ensure that any arrangement you decide to put in place is appropriate to your individual or businesses' personal and corporate circumstances.

Did you know...€280,000,000 was paid in Capital Acquisitions Tax in 2012.

Information is correct as at August 2013.
Irish Life Assurance plc is regulated by the Central Bank of Ireland.

Since budget 2012, we have identified a lack of awareness in the area of Gift and Inheritance Tax. The budget reduced threshholds to an all time low and as a direct result Inheritance Tax is no longer a problem, only for the wealthy of Irish Society, it is also a potential problem for middle class Ireland.

Capital Acquisitions Tax

Capital Acquisitions Tax (CAT) is the tax charged when a gift or inheritance is received. CAT comprises two separate taxes - a Gift Tax payable on lifetime gifts and an Inheritance Tax payable on inheritances received on a death.

Who is liable to this tax in Ireland?

The beneficiary of the estate is primarily liable for the payment of Capital Acquisitions Tax. Whether or not a charge to tax arises depends on whether the disponer (the person who is "providing the gift or inheritance") or the beneficiary (the person receiving the gift or inheritance) is resident or ordinarily resident in the state at the date of the gift or inheritance.

If the disponer or the beneficiary is resident or ordinarily resident in Ireland, then the entire estate will be liable to Capital Acquisitions Tax here.

If both the disponer and the beneficiary are not resident or ordinarily resident in Ireland, then only Irish property will be liable to tax e.g. Irish property, shares in an Irish company, money in an Irish bank account.

Who pays the tax?

It is the person receiving the gift or inheritance who is liable to CAT and not the person or estate providing the benefit.

CAT Rates

For new gifts and inheritances received on or after 5th December 2001 tax is calculated according to the total of all gifts and inheritances received from all sources since 5th December, 1991. The following CAT Tax Rate currently applies:

	Tax Rate
Group Threshold	NIL
Balance	33%

CAT Thresholds

The Group threshold amounts vary depending on the relationship between the beneficiary and the disponer, i.e. the person providing the gift or inheritance.

Group A €225,000	Where the person receiving the property is a child of the disponer or of the civil partner of the disponer, or a minor child of a deceased child of the disponer or of the civil partner of the disponer, or a minor child of the civil partner of a deceased child of the disponer, or of the civil partner of the disponer.
Group B €30,150	Where the person receiving the property is a lineal ancestor, descendant, a brother/sister, or child of a brother/sister or the child of a civil partner of a brother or sister of the disponer.
Group C €15,075	All other cases

The threshold amounts are those applying for the calendar year 2013. Thresholds are generally adjusted annually.

What assets are liable to inheritance or gift tax?

CAT is a self assessed tax. Where the assets are received as an inheritance the personal representatives of the deceased must list all assets and liabilities of the deceased when completing a Revenue Affidavit in relation to Inheritance Tax.

Tax is levied on the total net value of all assets received by a beneficiary, other than a legal spouse or registered civil partner. All assets are taken into account, the family home, a second home or investment property, the value of all investments, including cash, pension and life assurance benefits as well as all personal property house e.g. contents, jewellery etc.

Reliefs and Exemptions:

Certain reliefs and exemptions from Capital Acquisitions Tax apply to certain types of assets. These have been introduced over the years primarily to encourage private enterprise and to avoid the forced sale of a family farm, business or the family home in certain circumstances. The main exemptions / reliefs are:

Spouse or Civil Partner Exemption- Gifts or inheritances received by one spouse or civil partner from the other are totally exempt from CAT.

Agricultural Relief –the value of farmland, buildings and stock can be reduced by 90% where the beneficiary is a qualifying farmer and holds the property for a minimum of 6 years.

Business Relief – can provide a similar reduction of 90% in the taxable value of certain businesses or private companies, where both the business and the beneficiary meet the qualifying conditions.

Family Home Relief - exemption from Gift and Inheritance Tax is available on the value of certain "dwellings" with up to an acre of land where the beneficiary meets certain conditions which ensure that the property was, and continues to be, their home.

Life Assurance Relief - If you take out a life assurance life cover or savings plan, specifically to pay Gift or Inheritance Tax, the funds paid out on the plan will not be subject to Capital Acquisitions Tax - provided they are actually used to pay the tax bill.

All reliefs have specific conditions. Your Tax or Financial Adviser can provide you with full details of the conditions that may apply.

Life Assurance Section 72 Relief

To encourage people to plan ahead and to have cash available to pay Inheritance Tax when they die relief is available on certain life assurance plans. This relief was introduced by Section 60, of the 1985 Finance Act to allow people to plan for the payment in a tax efficient manner. The legislation is now contained in Section 72 of the CAT Consolidation Act 2003.

The Relief provides that where a life assurance policy is put in place to provide for the payment of Inheritance Tax, Revenue will not seek to tax the policy proceeds as long as the money is used to pay Inheritance Tax arising on the death of the lives assured under the policy, provided certain conditions are met.

A policy effected under Section 72 CAT Consolidation Act, 2003 effectively gives you an option – rather than letting tax legislation decide how your estate will be distributed – you can pass on your assets in the way you wish - and plan for the tax consequences.

Tax is a complicated subject. This gives only a very brief guide to some of the inheritance and gift tax rules applying in August 2013. These rules may change in the future. You should discuss your personal situation and the likely effect inheritance and gift tax will have on your plans with your tax or financial adviser.

Capital Acquisitions Tax Impact

Example

Mr and Mrs Kelly are aged 55 and their estate, valued at €1,000,000, is to be divided equally between their two children. Their children's inheritance tax bill will be €181,500 - i.e. 18% of the estate will be taken in tax.

This example is for illustration purposes only. The above assumes: The full Group A threshold is available to the children and neither child has received any gifts or inheritances from anyone else since 5th December 1991.

One solution available to Mr and Mrs Kelly would be to put a Section 72 Inheritance Tax plan in place. The plan would have life cover of €181,500 and this could be used to cover their children's' tax bill. Based on an Irish Life, Section 72 Life Long Insurance plan, the cost of this would be €2109.56 per year, about 1.16% of their tax bill.

Did you know?

1. Small Gift Exemption:

Capital Acquisitions Tax / Gift Tax legislation allows for an exemption from Gift Tax for the first €3,000 of any gift taken by a beneficiary from any one 'donor'.

The €3,000 is an annual limit.

What this means is that a beneficiary can receive up to €3,000 tax free in any one year from any donor, or even multiple donors, and this gift will not impact on their appropriate tax free group threshold.

2. Disposing of business assets:

When business assets are disposed of, either through sale, gift or inheritance, a number of different tax charges may arise.

- A Capital Gains Tax charge may be incurred by the person disposing of the assets, even if the assets are being given as a gift. The current CGT rate is 33%.
- A Capital Acquisitions Tax charge may be incurred by the recipient of the gift or inheritance or where the sale price is below market value. The current CAT rate is 33%.
- Stamp duty is also payable on the lifetime transfer of assets.

Different reliefs are available, which if applicable can reduce these tax charges.

- Retirement Relief from Capital Gains Tax
- Business Relief from Capital Acquisition Tax
- Consanguinity Relief from Stamp Duty (to be abolished 01/01/2015).

3. Funding for a Gift Tax Liability

You can create a fund that can be used to pay a Gift Tax liability. 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 children's gift tax bill will not increase their gift tax liability.

If you give your children money to pay the gift tax from your deposit account, this will be seen by Revenue as an additional gift and will actually increase their tax liability.

4. Approved Retirement Fund

If you purchase an Approved Retirement Fund, it may create an Inheritance Tax liability for your children.

Children under 21 - Inheritance Tax
Children over 21 - Income Tax at 30%

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PEFC/17-33-022
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ILA 10701 (NPI 11-13)