

## Part 2 – The Inland Revenue Affidavit

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## Capital Acquisitions Tax

### Part 2 -The Inland Revenue Affidavit (Form C. A. 24)

#### Introduction

The Inland Revenue Affidavit is an account of a deceased's estate that must be completed and sworn by the personal representative in order to obtain a Grant Representation from the Probate Office. The Inland Revenue Affidavit should be submitted directly to the Probate Office, together with all the necessary supporting documentation. The Affidavit must be submitted in duplicate and once the Grant of Representation issues in the deceased person's estate, one of the duplicate Inland Revenue Affidavits already lodged in the Probate Office will be furnished to the Revenue Commissioners together with a copy of the will (if any). Details regarding the issue of the Grant of Representation and other relevant information held in electronic format by the Probate Office/District Probate Registry is transmitted electronically to the Revenue Commissioners. Section 48(2) CAT Consolidation Act 2003 sets out the information to be provided in the Affidavit.

<http://www.irishstatutebook.ie/2003/en/act/pub/0001/sec0048.html#partvi-sec48>

In summary the completed Affidavit should contain -

A full account of the deceased's assets and liabilities at the date of death, information on, amongst other things, assets passing outside of the will or intestacy; and details of the beneficiaries and the value of the benefits taken.

(The 2010 Finance Act restricted the details required on benefits taken by the beneficiary to details of any current benefit exceeding €20,000, and also restricted the information to be provided in respect of prior aggregable benefits since 5 December 1991, to the amounts taken under each Threshold).

The importance of the Grant of Representation also known as a Grant of Probate or Letters of Administration (where there is no will) is that it gives legal confirmation to the appointment of the personal representative and acts as an assurance to financial institutions and to others that they can safely transfer the deceased's assets into the hands of the personal representative for distribution according to the terms of the will or the intestacy, having first discharged any debts of the deceased.

#### Processing of the Inland Revenue Affidavit

<http://www.revenue.ie/en/tax/cat/leaflets/ca25.html>

**Revenue staff are no longer required to provide certification before an Inland Revenue Affidavit is submitted to the Probate Office. The Inland Revenue Affidavit must now be lodged first with The Probate office who will**

**fully process it. They will then send a copy of same to Revenue together with an electronic version of data that the Probate Office themselves extract. Practitioners should no longer use the old version of the Inland Revenue Affidavit for deaths occurring on or after 5/12/01.**

**Where old versions of the Inland Revenue Affidavit are received by Revenue after 14/6/10 they should be returned to the sender for completion of the new form and transmission directly to the Probate Office.**

The following material is either exempt from or not required to be published under the Freedom of Information Act 1997.

[...]

### **Appointing an Irish resident agent where beneficiaries are non-resident**

To address the risks relating to the payment of CAT by non-resident beneficiaries, an Irish resident personal representative taking out probate or letters of administration, is appointed as an “Agent” of a non-resident beneficiary entitled to a benefit exceeding €20,000.

This provision is contained in S45AA and S48(10) of CATCA 2003 (as inserted by Finance Act 2010). The agent will be responsible for the pay and file requirements of the non-resident beneficiary/beneficiaries. The agent is entitled to retain funds adequate to meet the CAT liability, from any amounts due to the beneficiary, under the control of the agent. The liability of the agent is restricted to the extent of the funds available for distribution to the beneficiary

Where there is no Irish resident personal representative, the personal representatives must appoint a solicitor holding a practicing certificate in the State, as agent, prior to seeking probate or letters of administration.

### **Corrective Affidavit**

A Corrective Affidavit –Form C.A. 26- is required in duplicate where, following the extraction of Grant of Probate or Letters of Administration, the executor or administrator acting in the estate discovers material errors or omissions in the original Inland Revenue Affidavit. Corrective Affidavits are filed with the Probate office in the first instance, and copies are received by Revenue.

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[...]

## **2.5 De Bonis Non Grants (Form A3C)**

After Probate or Letters of Administration have been granted, but before the estate of the deceased has been fully administered, a situation can arise where the executor or administrator dies. In these circumstances a new executor or administrator must be appointed to complete the administration of the estate.

In such circumstances a Form A3 is completed in duplicate and sent directly to the Probate Office. A copy will then be sent to Revenue. The purpose of the form A3C is to ensure that Revenue is informed of any assets in addition to those already shown on the original affidavit.