

Part 3 – The Self-Assessment Tax Return

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Capital Acquisitions Tax

3 Part 3 - The Self-Assessment Return (Form I.T.38)

3.1 Introduction

3.1.1 Gift Tax

Since 28 February 1974 Gift Tax is payable on the taxable value of certain gifts made during the lifetime of the donor. The donor (or disponer) is the person who makes the gift, and the donee is the person who receives it. A gift is taken when a donee takes a gift of property and does not give full value for it. All gifts and inheritances taken on or after 5 December 1991 from within the same Group Threshold must be added together in order to calculate the tax on the current benefit. The tax is payable where the taxable value of the benefit exceeds the beneficiary's tax-free Group threshold amount.

<http://www.revenue.ie/en/tax/cat/leaflets/capital-acquisitions-tax-rates-thresholds.html>

A small gift exemption of €3,000 applies to a gift, taken from any one disponer in a calendar year.

3.1.2 Inheritance Tax

Inheritance Tax is charged on the taxable value of an inheritance taken on a death where the date of the inheritance is on or after 1 April 1975. The tax is payable where the taxable value of the benefit exceeds the beneficiary's tax-free Group threshold amount. All gifts and inheritances taken on or after 5 December 1991 from within the same Group Threshold must be added together in order to calculate the tax on the current benefit. The tax is payable where the taxable value of the benefit exceeds the beneficiary's tax-free Group threshold amount.

3.1.3 Self-Assessment Return- [Form IT38](#)

The 2010 Finance Act introduced a fixed pay and file date for CAT of 31 October. All gifts and inheritances with a [valuation date](#) in the 12 month period ending on the previous 31 August, require to be returned by 31 October.

Example:

Valuation Date 21 February 2011: File IT38 and pay tax by 31 October 2011.

Valuation Date 6 November 2011: File IT38 and pay tax by 31 October 2012.

The self-assessment CAT declaration is made on an IT38 return. As this is an annual return it can comprise more than one gift or inheritance.

IT38's may be filed before the due date of 31 October in a year, however where a return is filed without payment, any payment due must be made by 31st October.

Based on an extract of beneficiary information from the Inland Revenue Affidavit, Revenue's systems will automatically issue IT38's to individuals who it understands may have a requirement to pay and file a CAT return in a tax year. If for some reason the valuation date does not arise in the anticipated year, the beneficiary simply notifies Revenue (either in writing or by completion of a tick box on the IT38 form) and Revenue note their records accordingly.

The IT38 form may only be completed and returned in paper form where the beneficiary is not claiming any reliefs, exemptions, etc other than the small gift exemption. The paper return requires the filer to compute the liability. If Revenue is satisfied based on the data in the return that the tax is correctly computed, an acknowledgement will issue. However if Revenue determine a higher liability (say due to the application of a late filing surcharge), an amended assessment will be made.

Where any other relief or exemption is being claimed, the return **must** be filed electronically through [ROS](#). This ensures accurate returns, the correct calculation of the tax and only involves those completing the return being presented with the pertinent questions for completion. E-filing can however be used to file a return even where no reliefs or exemptions are being claimed.

In order to compete a return online, an agent must first download a [ROS Digital Certificate](#) to their computer. The Digital cert also allows them to calculate the tax liability, make payments on line (through Laser or RDI – ROS Debit Instruction), obtain online details of clients Revenue accounts and claim repayments online. The ROS off-line facility allows the IT38 return to be downloaded onto a computer or office computer network and the return to be “built” off-line in advance of filing. It also allows agents to check the returns offline and for them to put the payment through their approval processes, before transmitting it online to Revenue. The IT38 screens also have links to on-line help text.

FINANCE ACT 2011 CHANGE TO CAT PAY AND FILE DATE
SECTION 70 FINANCE ACT 2011

Section 70 Finance Act 2011 brings the pay and file date for CAT forward from 31 October to 30 September. The Section also makes consequential changes to the provisions relating to the time when interest is charged on tax which is paid after the due date and to the surcharge for late returns. This amendment applies to returns delivered and tax paid on or after 21 January 2011.

3.1.4 Rates of tax for gifts and inheritances

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Rates of tax are applied on two parameters, the date the gift/inheritance is taken and whether the gift/inheritance value exceeds the designated threshold for the period.

The following examples were the rates applicable at the time of publication:-

- ❖ Up to the tax-free Group threshold - Nil
- ❖ Excess over tax-free Group threshold - 20%
- ❖ Excess over tax-free Group threshold - 22%
(where the gift or inheritance is taken on or after 20 November 2008)
- ❖ Excess over tax-free Group threshold - 25%
(where the gift or inheritance is taken on or after 8 April 2009).

[Current Rates](#) are published on the Revenue website.

3.1.5 Calculation of Gift and Inheritance Tax

The tax is calculated on the market value of the property comprised in the gift or the inheritance (less deductions and reliefs) to the extent that that value exceeds a tax-free threshold amount, known as the “Group threshold”.

In the case of an inheritance, in arriving at the taxable value, deductions are allowed for debts owed by the deceased, funeral expenses, and any pre-death liabilities such as Income Tax, and also for legal costs of administration of the estate etc.

In the case of gifts, in arriving at the taxable value, legal costs, Stamp Duty and any consideration given by the donee are allowed as deductions.

3.1.6 Thresholds for gifts and inheritances

For the purposes of both Gift and Inheritance Tax, the relationship between the person who provided the gift or inheritance (i.e. the disponer) and the person who received the gift or inheritance (i.e. the beneficiary), determines the maximum tax-free threshold- known as the “Group Threshold”. Three Group Thresholds were introduced on 1 December 1999 based on the relationship of the beneficiary to the disponer and these Group thresholds are indexed annually by reference to the Consumer Price Index.

The Group thresholds for 2010 are as follows:

- ❖ Group A: - €14,799- applies where the beneficiary is a child (including certain foster children) or minor child of a deceased child of the disponer. Parents also fall within this threshold where they take an absolute inheritance from a child.
- ❖ Group B: - €1,481- applies where the beneficiary is a brother, sister, niece, nephew, or lineal ancestor or descendant of the disponer

- ❖ Group C: - €20,740- applies in all other cases.

Threshold amounts for prior years can be found [here](#).

It is important to note that all gifts or inheritances taken by a beneficiary from within the same Group threshold since 5 December 1991 will be taken into account when applying the threshold for the purpose of calculating whether any gift or inheritance tax arises. Click [here](#) for aggregation rules.

3.17 Surcharge for Late Filing

The 2010 Finance Act introduced a surcharge for those who do not comply with the filing deadline of 31 October. The surcharge is based on a percentage increase in the total CAT payable for the year for which the return is late. The surcharge is subject to a grading of the surcharge by reference to the length of the delay, but there is also an overall cap on the amount of the surcharge.

A 5% surcharge applies, subject to a maximum of €12,695, where the CAT return is delivered within two months of the filing date (e.g., for the year of assessment 2010, any date between 1 November 2010 and 31 December 2010 inclusive).

A 10% surcharge, up to a maximum of €3,485, applies where the IT38 is not delivered within two months of the filing date. Note the application of the surcharge is not retrospective – it first applies to the 2010 CAT return.

The Revenue Commissioners have published a guide to CAT [Pay and File](#) on the Revenue website.

See 3.1.3 above regarding Finance Act 2011 change to CAT pay and file date.

3.18 Paper returns and payments received in Districts

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

[...]