

Part 17 - Collection Issues

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Capital Acquisitions Tax

17 Part 17 - Collection Issues

The vast majority of taxpayer's discharge their capital acquisitions tax liability by direct payment when they submit their self-assessed taxes return. In the small number of cases where this does not occur, there are a number of other payment options available. These are:

- ❖ Statutory instalments
- ❖ Non-statutory instalments
- ❖ Registration of the debt as a voluntary judgment mortgage

17.1 Payment by Statutory Instalments – Section 54 CATCA 2003

Section 54 CATCA 2003 provides for the payment of tax by means of 5 equal yearly instalments where a beneficiary takes:

- ❖ An absolute interest in
 - immovable property
 - agricultural property consisting of land, buildings and farm machinery
 - relevant business property **or**
 -
 - a limited interest taken in any property.

Taxpayers may opt for this method of payment when completing their self-assessment tax return. Where the option to pay by 5 yearly instalments is exercised, the first instalment is due and payable on the 1st anniversary of the valuation date.

Where the Inheritance or Gift is comprised of both personalty (cash, stocks and shares, bank accounts etc) and real property (lands, buildings), then any tax on the former must be paid immediately, (except in the case of a limited interest) and the option of paying by statutory instalments may be availed of to discharge the liability on the latter.

Where a person takes a limited interest in property and dies before the 5- year statutory instalment period has expired, any instalments not due are written off and tax paid may be recoverable as an overpayment under section 57. **This applies whether or not instalment arrangements were entered into.**

Were the instalment option is availed of, interest on the outstanding tax accrues under section 51.

17.2 Payment by Non- Statutory Instalments

This method of payment is granted on a concessionary basis in exceptional circumstances where the tax liability cannot be paid without causing excessive hardship.

In arriving at a decision to allow non-statutory instalments, a case is looked at on its merits taking the following criteria into account:

- ❖ the nature of the gift or inheritance- where, for example, a sizeable part of the benefit comprises liquid assets, then an instalment arrangement is not normally approved.
- ❖ The financial circumstances of the beneficiary

The conditions applying to non-statutory instalments normally are that:

Interest continues to accrue on the unpaid tax.

Payments are applied against interest in the first instance.

Payments must be made on the agreed due date.

The arrangement is entered into on a without prejudice basis.

17.3 Registration of the debt as a Voluntary Judgment Mortgage

Payment of the tax may be postponed in exceptional circumstances, on a concessional basis. This may be allowed where payment of the tax would cause excessive hardship for a beneficiary such as, a beneficiary having to sell their home to pay the tax and where payment of instalments would not be a practical alternative. The agreement to postpone payment is subject to an agreement by the parties concerned to the registration of the debt as a Voluntary Judgement Mortgage on the property.

Interest will continue to accrue on the registered amount.