

NOTES FOR GUIDANCE

CAPITAL ACQUISITIONS TAX CONSOLIDATION ACT 2003

**(as amended by subsequent Acts up to and including the
Finance (No.2) Act 2023)**

Part 6: Returns and Assessments



These notes are for guidance only and do not purport to be a definitive legal interpretation of the provisions of the Capital Acquisitions Tax Consolidation Act 2003 (No. 1 of 2003) as amended by subsequent Acts up to and including the Finance (No.2) Act 2023.

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Overview

This Part deals with matters such as the persons who are accountable for the payment of tax, the retention of records for a certain period of time, the delivery of returns, the expression of doubt on a particular technical point in a return, the assessment of tax, the signing of returns, affidavits and accounts and the computation of tax.

45 Accountable persons

Summary

This section identifies the persons liable for payment of tax. The liability rests on the donee or successor (or transferee, in any case where the provisions of *section 32* apply). These persons have the power to raise the amount of tax and any expenses properly paid or incurred by that person by the sale or mortgage of, or a terminable charge on, the property or any part of the property.

The section also gives a person authorised by the Revenue Commissioners the right to inspect records (including records held in electronic form) in the custody of any public officer and to copy and take notes and extracts as that person considers necessary.

Details

The liability for the payment of tax rests on the donee or successor. However, in the case dealt with in *section 32(2)* (i.e. where the benefit is transferred to a transferee by the beneficiary before it becomes an interest in possession), the primary liability rests on the transferee. (1)

The tax will be recoverable from the persons referred to in *subsection (1)* and the personal representatives of such persons, where those persons have died, on whom the Revenue Commissioners have served notice in writing of the assessment of tax under *section 49(4)*. (2)

The persons referred to in *subsection (1)* and the personal representatives of such persons have power to raise the amount of such tax and any expenses properly paid or incurred by that person in respect of raising the amount of such tax by the sale or mortgage of, or a terminable charge on, the property or any part of the property (3)

A person who is authorised by the Revenue Commissioners can inspect any public or official records (including any records held in electronic form) that may tend to secure the tax, or to prove or lead to the discovery of any fraud or omission in relation to the tax. (4)

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45A Obligation to retain certain records

Summary

The purpose of this section is threefold, viz.:

- to oblige accountable persons to retain certain records for the purposes of making a gift or inheritance tax return;
- to describe the type of records required to be retained;
- to prescribe the length of time for which these records must be retained.

This section is modelled on similar provisions found in the Taxes Consolidation Act 1997. The section came into effect by way of Ministerial Order on 1 October 2003.

Details

The records covered by the section include any records relating to any benefit taken under any disposition, any liabilities, costs or expenses or to any exemption or relief. (1)

An accountable person will be obliged to retain, by himself/herself or by another person on his/her behalf, such records as are required to enable a true return or an additional return for capital acquisitions tax purposes to be made. (2)

The records must be retained in written form in an official language of the State or by electronic or other means provided it complies with the requirements of section 887(2) of the Taxes Consolidation Act 1997, which mainly requires that the records can be reproduced in an intelligible form. (3)

The records must be retained for 6 years from the valuation date of the gift or inheritance (including an inheritance deemed to be taken by a discretionary trust under *sections 15* and *20*). However, where there is a delay in filing a gift or inheritance tax return, the period of retention is 6 years from the date of receipt of the return by the Revenue Commissioners. This is also the retention period where the Revenue Commissioners request a return, additional return or statement in certain circumstances from a person or, where an accountable person makes an additional return if they discover an error in the original return. (4)

A penalty of €3,000 is imposed on any person who fails to comply with the requirements of the section, but any person who is not chargeable to tax in respect of the gift or inheritance will not be liable to such a penalty. (5)

45AA Liability of certain persons in respect of non-resident beneficiaries

Summary

This section provides that the personal representatives or the solicitor required to be appointed to administer a deceased person's estate, where the personal representatives are resident outside the State, will be liable to inheritance tax to the same extent as the non-resident beneficiaries

Details

The personal representatives or any of the personal representatives, where there is more than one, and a solicitor referred to in *section 48(10)* who is required to administer the estate of a deceased person where the personal representative(s) is/are not resident in the State will be liable to inheritance tax to the same extent as the beneficiaries, where such beneficiaries are not resident in the State (1)

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Subsection (1) will not apply where a liability to inheritance tax arises by virtue of the fact that a non-resident beneficiary has not disclosed that he or she has received a prior aggregable gift or inheritance and the personal representative or the solicitor referred to in **section 48(10)** has made reasonable enquiries regarding such gifts and inheritances and has acted in good faith. (2)

The personal representatives or the solicitor referred to in **section 48(10)** will be liable for the inheritance tax (3) in respect of the non-resident beneficiaries to the extent that they have control of the property or would have control of such property but for their own neglect or default.

The persons referred to in **subsection (3)** —

- will be entitled to retain so much of the property as may be required to pay the tax in respect of the non-resident beneficiaries, and (4)
- will have the power, whether the property is or is not vested in that person, to raise the amount of such tax, and any expenses properly paid or incurred by those persons in respect of the raising the amount of such tax, by the sale or mortgage of, or a terminable charge on, that property or any part of that property.

46 Delivery of returns

Summary

This section provides that a person who is accountable for the payment of tax must deliver a return and assess and pay the tax in respect of a taxable gift or a taxable inheritance on or before 31 October in the relevant year and imposes an obligation on a person to deliver a return if requested to do so by the Revenue Commissioners, even if no benefit has been received. A donor of a gift or a disponent in relation to a discretionary trust must make a return to the Revenue Commissioners in certain circumstances.

The section also contains provisions dealing with the payment of tax by means of instalments and by means of Government securities and the inspection of property and records.

The period within which the Revenue Commissioners can make enquiries or authorise inspections is restricted to a period of 4 years commencing on 31 December in the year the return is received. This will not apply where fraud or neglect is involved.

Details

A reference in the section to a gift or a taxable gift generally includes a reference to an inheritance or a taxable inheritance, as the case may be and a reference to a donee includes a reference to a successor (1)

Any person who is accountable for the payment of tax under **section 45(1)**, or trustees of a discretionary trust to which the 6% and 1% charges apply, are obliged to deliver a self-assessed return and pay the relevant tax. The return must contain details of all the property comprised in the gift or inheritance, an estimate of the market value of such property on the valuation date and such particulars as may be relevant to the assessment of the tax (2)

For the purposes of **subsection (2)** (other than in respect of the 6% and 1% charges), where the relevant date occurs — (2A)

- in the period from 1 January to 31 August in any year, tax (if any) shall be paid and a return shall be delivered on or before 31 October in that year, and
- in the period from 1 September to 31 December in any year, tax (if any) shall be paid and a return shall be delivered on or before 31 October in the following year.

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Subsection (2A) will only apply in relation to tax to be paid and returns to be delivered as respects valuation dates arising on or after such day as may be appointed by an order made by the Revenue Commissioners. (The 14th June 2010 is appointed as the relevant day – see Capital Acquisitions Tax Consolidation Act 2003 (Section 46(2B)) (Appointed Day) Order 2010.) **(2B)**

In the case of discretionary trust tax, returns shall be delivered and tax paid within 4 months of the valuation date. **(2C)**

Where inheritance tax is to be paid by way of transfer of qualifying Government securities under section 56 of the Act, that person will be considered to have complied with paragraph (b) of subsection (2) by — **(3)**

- (a) making an application must be made to Revenue to pay all or part of the tax by such transfer,
- (b) completing the transfer of the securities to the Minister for Finance within such a time, not being less than 30 days, as may be specified by Revenue by notice in writing, and
- (c) duly paying the excess, if any, of the amount of tax referred to in subsection (2)(b) over the nominal face value of the securities tendered in payment of the tax in accordance with paragraph (a) of subsection (2).

A return to be delivered in accordance with subsection (2A) must be delivered electronically except where a relief or an exemption (other than the exemption for small gifts in **section 69**) is not being claimed and the interest taken by a person is an absolute interest which is not subject to any conditions or restrictions. **(3A)**

With regard to any person who is primarily accountable for the payment of tax, the rule is that he/ she is obliged to deliver a self-assessed return where, the total taxable value of all gifts or inheritances taken by that person, which have the same group threshold as the current gift or inheritance, exceeds 80% of his/her tax-free threshold (known as the “threshold amount”) or the gift or inheritance comprises or includes agricultural property within the meaning of section 89(1) or relevant business property within the meaning of section 93(1), or where he/she is required by notice in writing to deliver a self-assessed return. When required by notice in writing to deliver a return, the person primarily accountable must comply with the requirement within 30 days of the date of the notice. **(4), (5)**

A person who is deemed to take a gift in respect of the use or enjoyment of a specified loan to which subsection (4A) of section 46 applies will be required to deliver a return and certain particulars in relation to the loan to Revenue regardless of the taxable value of that gift. **(4)**

This subsection sets the parameters for the types of interest-free loans that are reportable in a CAT return. **(4A)(a)**

The following definitions apply:

‘beneficial owner’, in relation to a company, means any person that is a beneficial owner of:

- the shares in the company, or
- the entitlements under any liability incurred by the company (otherwise than for the purposes of the business of the company, wholly and exclusively);

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'close relative', in relation to a person, means:

- a parent of the person,
- the civil partner of a parent of the person,
- a lineal ancestor of the person,
- a lineal descendant of the person,
- a brother or sister of the person,
- a brother or sister of a parent of the person, or
- a brother or sister of the civil partner of a parent of the person

'company' has the same meaning as in section 43, being a "private company" within the meaning of section 27. In section 27, a "private company" means a body corporate (wherever incorporated) which is under the control of not more than 5 persons and is not a company which would fall within scope of section 431 of the Taxes Consolidation Act 1997 were it a close company (which section provides that certain companies with quoted shares are not to be treated as close companies);

'loan' means any loan, advance or any form of credit

'relevant period' has the meaning given to it by section 40(1), and effectively means the period of 12 months ending on 31 December in each year for which a person is allowed to have the use, occupation or enjoyment of any property (to which property that person is not beneficially entitled in possession) otherwise than for full consideration;

'share' has the same meaning as in section 27, and effectively means any interest in a "private company" which is analogous to a share in the company and includes every debenture, or loan stock, issued otherwise than as part of a transaction which is wholly and exclusively a bona fide commercial transaction

'specified loan', in relation to a person, means a loan made:

- to the person by a close relative of that person,
- by a company to the person, where a beneficial owner of the company is a close relative of that person,
- to a company, where the person is a beneficial owner of the company and the person making the loan is a close relative of that person, or
- by a company ('the first-mentioned company') to another company ('the second-mentioned company'), where the person is a beneficial owner of the second-mentioned company and a beneficial owner of the first-mentioned company is a close relative of that person;

'tax reference number' has the same meaning as in section 172A of the Taxes Consolidation Act 1997, and effectively means the PPSN of the person or the tax reference number of the person, whether that tax reference number was issued by Revenue or by another tax authority.

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This subsection sets out the specified loans that are within the scope of the reporting requirement in subsection (4). The subsection applies to a specified loan where: **(4A)(b)**

- (i) a person is deemed under section 40(2) to have taken a gift in respect of the use or enjoyment of the specified loan,

[Section 40(2) deems a person to take a gift in respect of the free use, occupation or enjoyment of property to which they are not beneficially entitled in possession. This is a long-standing provision of the Act and is intended to provide for some taxable benefit where a person has the free use of property but does not acquire any beneficial interest in that property. In the context of a loan a deemed gift will arise where the person who has the benefit of the loan does not pay full consideration (i.e. market interest) for that loan. The gift will be the value of the free use rather than the loan itself.]

- (ii) within 6 months of the end of the relevant period in which the gift referred to in subparagraph (i) is deemed to have been taken, no interest has been paid in respect of the specified loan, and
- (iii) the balance outstanding on the specified loan, when aggregated with the balance outstanding on any other specified loan to which subparagraphs (i) and (ii) apply in the relevant period, exceeds €335,000 on at least 1 day in the relevant period.

This paragraph applies to loans made indirectly between close relatives, through a corporate entity. These provisions are aligned with similar “look-through” provisions relating to trusts and corporate entities. **(4A)(c)**

- (i) any shareholder company is looked through to the beneficial owners when determining whether a loan was made to a person by a close relative, and
- (ii) the reporting requirement will still apply where a specified loan is made via corporate entities and the shares in those corporate entities are held in a trust.

Information relating to each specified loan is to be included in a CAT return made to the Revenue Commissioners. This information will be in addition to the information that is ordinarily required to be included in a CAT return in accordance with subsection (2). The particulars to be provided in relation to each specified loan are: **(4A)(d)**

- the name, address and tax reference number of the person who made the loan;
- the balance outstanding on the loan;
- such other information as the Commissioners may reasonably require for the purposes of the Act

[This subsection was deleted by section 147 of the Finance Act 2010.] **(6)**

The Revenue Commissioners have the right to serve notice on any accountable person requiring him/her to furnish particulars and evidence which they consider relevant to the assessment of tax in respect of a gift or inheritance. The person who is accountable for the payment of tax must comply with the requirement within 30 days of the date of the notice. **(7)(a)**

Any authorised officer of the Revenue Commissioners has the right to inspect any property comprised in a gift or inheritance, and any books, records, accounts or other documents relating to any property which may be relevant to the assessment of tax. **(7)(b)**

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The period within which the Revenue Commissioners can initiate enquiries or authorise inspections under **subsection (7)(a)** or **(7)(b)** is: 4 years commencing on: **(7A)**

- (a) subject to paragraphs (b) and (c) 31 December in the year in which the relevant return is received,
- (b) the date on which a discretionary trust tax return is received or
- (c) the latest date on which all of the qualifying conditions for a relief or exemption are required to be satisfied.

The restriction referred to in **subsection (7A)** does not apply where fraud or neglect is involved. For the purposes of this subsection, neglect includes a failure to deliver a correct return. This provision came into effect on 1 January 2005. **(7B)**

The Revenue Commissioners may serve a notice in writing requiring an accountable person who has already made a defective return to— **(8)**

- deliver an additional self-assessment return,
- assess the correct amount of tax, and
- pay any outstanding amount due.

The person who is accountable for the payment of tax must comply with the terms of the notice within 30 days of the date of that notice. Provision is made for the payment of any additional amount due under the subsection by instalments or by the transfer of Government securities to the Minister for Finance.

Any person accountable for the payment of tax who has already delivered a defective return must, within 3 months of becoming aware of the defect— **(9)**

- deliver an additional self-assessed return,
- assess the correct amount of tax, and
- pay any outstanding amount due

Provision is made for the payment of any additional amount due under the subsection by instalments or by the transfer of Government securities to the Minister for Finance.

A payment of tax (other than a payment of tax by means of the transfer of Government securities to the Minister for Finance) by a person who is accountable for payment of tax in respect of an assessment of tax made by him/her must accompany the return and be paid to the Collector-General of the Revenue Commissioners. **(10)**

An assessment or payment of tax, made under the provisions of the section by a person who is accountable for the payment of tax, must include interest payable in accordance with **section 51**. **(11)**

Any person must, if required by written notice to do so, deliver a return within 30 days of the date of the notice, showing details of every taxable gift or inheritance taken by that person during the period specified in the notice or, as the case may be, indicating that that person has taken no taxable gift during that period. **(12)**

A disponent of a gift or inheritance to which **subsection (14)** applies is obliged to deliver a return where the Revenue Commissioners issue a notice to him/her, within such time as may be specified in the notice — **(13)**

- of all the property comprised in the gift on the valuation date,
- of an estimate of the market value of such property on the valuation date, and
- of such particulars as may be relevant to the assessment of tax in respect of the gift.

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The obligation to make a return will arise under **subsection (13)** where: **(14)**

- the total taxable value of all gifts and inheritances taken by the donee from the same disponent on or after 5 December 1991 exceeds 80% of the relevant group threshold applying to the gift or inheritance,
- the gift or inheritance comprises or includes agricultural property within the meaning of section 89(1) or relevant business property within the meaning of section 93(1), or
- the gift is in respect of the use or enjoyment of a specified loan to which subsection (4A) applies.

A disponent who is resident or ordinarily resident in the State on the date the trust was created is obliged **(15)** to make a return to the Revenue Commissioners within 4 months of the creation of a discretionary trust of—

- the terms of the discretionary trust,
- the names and addresses of the trustees and objects of the discretionary trust, and
- an estimate of the market value of the property becoming subject to the discretionary trust

A non-Irish domiciled person will not be treated as resident or ordinarily resident in the State on the date **(16)** the trust was created unless that person has been resident in the State for the 5 consecutive years of assessment immediately preceding the year of assessment in which that date falls.

46A Expression of doubt

Summary

This section provides for an expression of doubt facility on the gift or inheritance tax return form or on the discretionary trust tax return form.

An expression of doubt enables a taxpayer to express doubt in relation to any item on the return form which affects the quantum of tax which they are due to pay in respect of that return. This facility is also available to taxpayers in relation to the direct taxes and value added tax.

The section came into effect by way of Ministerial Order on 1 October 2003.

Details

A person in doubt as to the correct application of the law or the treatment, for tax purposes, of any **(1)** matter to be included in a return or an additional return may bring this matter to the attention of the Revenue Commissioners by expressing the doubt on the return or additional return. In addition, a person expressing doubt on any matter will be treated as having made a full and true disclosure with regard to the matter about which there is doubt.

A person expressing doubt in relation to a particular matter will not be penalised with interest under the **(2)** interest provisions contained in **section 51(2)** where it transpires that additional tax is due, on condition that that additional tax is paid within 30 days of the date on which the Revenue Commissioners notify the taxpayer of their final decision on the matter.

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Even though an expression of doubt is made, interest will be payable on any additional tax where the Revenue Commissioners do not accept as genuine the expression of doubt. This will apply where the Revenue Commissioners believe that the person expressing the doubt was acting with a view to tax evasion or avoidance. (3)

Where the Revenue Commissioners do not accept an expression of doubt as genuine, they will notify the person who is accountable for the payment of tax accordingly within 30 days of receiving the return or additional return upon which the expression of doubt has been made. That person must account for any additional tax and interest on that tax. (4)

The person who is accountable for the payment of tax has a right of appeal against a decision of the Revenue Commissioners that an expression of doubt is not genuine. (5)

47 Signing of returns, etc.

Summary

This section provides that returns should be made on a form provided or approved of by the Revenue Commissioners and be signed by the person who is accountable for the payment of tax. The Revenue Commissioners may require a return to be sworn or to be affirmed or may accept a return which has not been signed.

Details

A return or an additional return required to be delivered under the Act must be signed by the person accountable for the payment of tax who delivers the return or the additional return. The return must include a declaration by the person signing it that the return or additional return is, to the best of his/her knowledge, information and belief, correct and complete. (1)

The Revenue Commissioners may require a return or additional return to be made on oath. (2)

The Revenue Commissioners may accept a return or additional return which has not been signed by the person accountable for the payment of tax. This enables the return to be signed by an agent (e.g. a solicitor or an accountant). (3)

A return, additional return, affidavit, additional affidavit, account or additional account delivered to the Revenue Commissioners under the Act must be made on a form approved by them. (4)

Persons who are required to make an oath for the purposes of the Act are facilitated by allowing the oath to be administered by a Revenue official or a Peace Commissioner, if it is inconvenient for the person concerned to go to a Commissioner of Oaths. (5)

For the purposes of the section, references to an oath will be construed as references to an affirmation and references in the section to the administration or making of an oath will be construed accordingly. (6)

48 Affidavits and accounts

Summary

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This section previously dealt with the Inland Revenue Affidavit required on application for a grant of probate or letters of administration. The process whereby details of a deceased person's estate was submitted to Revenue via a sworn affidavit ceased to apply with effect from 14 September 2020. The section was repealed in part under section 63 of Finance Act 2019 and the repealed text was largely replaced with section 48A and subsequent regulations enacted under that section. These changes were made to facilitate the transition to e-Probate. The information that was previously provided to Revenue in the Inland Revenue Affidavit is now provided in an on-line Statement of Affairs form pursuant to section 48A of this Act.

Subsections (3), (10) and (11) were not repealed and continue to have effect. These subsections deal with two specific scenarios. Subsection 3 provides that an account must be delivered by the trustees of a settlement under which the deceased person had a limited interest and the account, in this case, must contain details of all inheritances arising under that settlement, the names and addresses of the successors and their relationship to the person who made the settlement and such other information as may be required.

Subsection (10) sets out the circumstances under which an applicant for probate must appoint a solicitor entitled to practice in the State to act in relation to the administration of the deceased person's estate. Subsection (11) prohibits the Probate Office from issuing probate or letters of administration in the circumstances described in subsection (10) unless a solicitor has been appointed.

Details

This subsection has been deleted by section 63(1)(a) of Finance Act 2019. **(1)**

This subsection was deleted by section 63(1)(a) of Finance Act 2019. **(2)(a)**

This subsection was deleted by section 63(1)(a) of Finance Act 2019. **(2)(b)**

This subsection was deleted by section 63(1)(a) of Finance Act 2019. **(2)(c)**

This subsection was deleted by section 63(1)(a) of Finance Act 2019 **(2)(d)**

This subsection was deleted by section 63(1)(a) of Finance Act 2019 **(2)(e)**

This subsection was deleted by section 63(1)(a) of Finance Act 2019 **(2)(f)**

Where the interest of the deceased person was a limited interest, the trustees of the property in which **(3)** the limited interest subsisted are obliged to deliver an account which contains the following particulars:

- details of each inheritance arising on the death of the deceased person under the disposition under which the limited interest of the deceased person arose, including the name and address of each person taking such inheritance and his/her relationship to the disponent; and
- such other particulars as the Revenue Commissioners may require for the purposes of the Act.

This subsection has been deleted by section 63(1)(a) of Finance Act 2019. **(4)**

This subsection has been deleted by section 63(1)(a) of Finance Act 2019. **(5)**

This subsection has been deleted by section 63(1)(a) of Finance Act 2019. **(6)**

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This subsection has been deleted by section 63(1)(a) of Finance Act 2019. (7)

This subsection has been deleted by section 63(1)(a) of Finance Act 2019. (8)

This subsection has been deleted by section 63(1)(a) of Finance Act 2019. (9)

The intended applicant(s) for probate or letters of administration is/are obliged to appoint a solicitor who is entitled to practice in the State to act in relation to the administration of the estate of a deceased person where — (10)

- property passing under the deceased person’s will or intestacy or Part IX or section 56 of the Succession Act 1965, or otherwise as a result of the death of that person, is taken by a person or persons who is or are not resident in the State,
- the market value of the property taken by any person exceeds €20,000,
- the intended applicant(s) for probate or letters of administration is or are resident outside the State, and
- a return would be required to be delivered to the Revenue Commissioners in respect of the property under **section 46(2)** if the valuation date were the date of death of that person

The Probate Office will not issue probate or letters of administration in respect of the estate of a deceased person in any case to which **subsection (10)** applies unless a solicitor who is entitled to practice in the State has been appointed by the intended applicant(s) to act in connection with the administration of the estate of a deceased person (11)

48A Information about a deceased person’s property

Summary

This section was inserted by section 63 of Finance Act 2019 to facilitate the introduction of the e-probate process. The section requires that persons intending to apply for probate of a deceased person’s estate must submit information to Revenue relating to the deceased person’s estate. The information that may be required is to be specified in regulations to be made by the Revenue Commissioners and the regulations may specify that the information is to be provided electronically

Detail

This subsection provides that “electronic means” has the same meaning assigned to it as in section 917EA TCA 1997. That section provides for the mandatory e-filing and payment of tax. The subsection also provides that “probate” includes letters of administration (the probate equivalent in the case of an intestacy). The term “banker” is defined for the purposes of the section as having the same meaning as in **section 109** of the Act. “PPS number” is also defined. (1)

Subsection 2 provides that where a person intends to apply for probate in respect of a deceased person and an inheritance from such deceased person would be within the territorial scope of Irish capital acquisitions tax, the person making the application for probate must submit specified information, which is to be set out in regulations made under **subsection 3**, to Revenue (2)

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Subsection 3 allows Revenue to make regulations to give effect to subsection 2. These regulations include (3) provision for the specific information to be provided to Revenue to include the information set out in **paragraphs (a) to (h)**.

Paragraph (a) of **subsection (3)** provides that the information to be submitted to Revenue may include (3)(a) details of all property for which probate is being applied

Paragraph (aa) of **subsection (3)** provides that where an inheritance from the deceased would be within the (3)(aa) territorial scope of capital acquisitions tax due to the residency status of the deceased person the information to be submitted to Revenue may include details of all property wherever situate, the beneficial ownership of which, on the person's death, is affected by the deceased person's will, the rules for distribution on intestacy, or Part IX or section 56 of the Succession Act 1965 (or an analogous law in another territory).

Paragraph (b) of **subsection (3)** provides that the information to be submitted to Revenue may include (3)(b) details relating to the deceased person including their name and address, PPSN, residence and domicile and details of debtors and creditors.

Paragraph (c) of **subsection (3)** provides that the information to be submitted to Revenue may include (3)(c) details of all gifts made by the deceased person which have become inheritances due to the date of the gift being less than two years prior to the date of his or her death and details of any *donatio mortis causa* by the deceased person.

Paragraph (d) of **subsection (3)** provides that the information to be submitted to Revenue may include (3)(d) details of any discretionary trust created by the deceased person either during his or her lifetime or under his or her will.

Paragraph (e) of **subsection (3)** provides that the information to be submitted to Revenue may include (3)(e) details of all inheritances arising under the deceased person's will, intestacy rules or under Part IX or section 56 of the Succession Act 1965 or an analogous law in another territory.

Paragraph (ea) of **subsection (3)** provides that the information to be submitted to Revenue may include (3)(ea) details of inheritance other than those referred to in **paragraph (c), (d) and (e)** arising on the death of the deceased person.

Paragraph (f) of **subsection (3)** provides that the information to be submitted to Revenue may include the (3)(f) name and address, PPSN, residence and domicile of all persons taking an inheritance from the deceased person together with details of such person's relationship to the deceased person.

(3)(g)
Paragraph (g) of **subsection (3)** provides that the information to be submitted to Revenue may include the name and address of the person who is applying for probate, his or her relationship to the deceased person, his or her capacity to apply for probate and the form of declaration required of the application

Paragraph (h) of **subsection (3)** provides that the information to be submitted to Revenue may include (3)(h) such other particulars that the Revenue Commissioners may reasonably require for the purposes of this Act.

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Subsection (3A) provides that the details referred to in **paragraphs (a) and (aa)** of **subsection (3)** shall include (3A)

- the nature of the property,
 - the nature of the deceased person's interest in the property,
 - the situation of the property,
 - the valuation of the property, and
- any debts or charges attaching to the property.

Subsection (3B) provides that where a banker, as defined in **subsection (1)**, receives a written request from (3B) a person seeking to apply for probate in respect of the estate of a deceased person, or an agent acting for such a person, to provide information relating the deceased person's property, including property held jointly with others, the banker shall provide this information to the extent that it is in their power, possession or procurement, notwithstanding any obligation as to secrecy or restriction on disclosure of information

Subsection (4) provides that regulations made under subsection (3) may also provide for- (4)

- supporting documentation to be provided including a copy of the will, and codicil, if any,
 - the submission of information by electronic means,
 - the exchange of information between Revenue and the Probate Office
- any provisions arising out of the above which appear necessary to Revenue to give effect to **subsection (2)**.

Subsection (5) provides that regulations made under this section must be laid before Dáil Eireann. Where (5) Dáil Eireann passes a resolution annulling the regulation within 21 sitting days after the regulation has been so laid, the regulation is annulled.

49 Assessment of tax

Summary

This section deals with assessments of tax made by the Revenue Commissioners where, for example, a return has not been delivered or an incorrect return has been made. If an assessment made on a return is incorrect, the section empowers them to issue a correcting assessment or to issue an additional assessment. The section also provides for service of notice of an assessment and for publication in *Iris Oifigiúil* if the address of an accountable person is not known

The period within which the Revenue Commissioners can raise assessments, correcting assessments or additional assessments is being restricted to a period of 4 years from the date of receipt of the return. This restriction will not apply where fraud or neglect is involved. These provisions came into effect by way of Ministerial Order on 1 January 2005.

Details

In the normal case, a self-assessed return is delivered by a donee or successor under **section 46**. (1) However, if no return is delivered, or if an unsatisfactory return is delivered, the Revenue Commissioners can make an assessment of tax. If the accountable person is aggrieved by an assessment made by the Revenue Commissioners, he/she may lodge an appeal under **section 67**.

The Revenue Commissioners may issue an assessment to a person referred to in **section 45(1)** where (1A) a return has not been delivered to them under **section 46(2)**.

The Revenue Commissioners are empowered—

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to make a correcting assessment where an assessment was incorrect or an additional assessment where too little tax was assessed; (2), (3)

to serve written notice of the assessment of tax on the accountable person or that accountable person's agent or personal representative; (4)

publish a notice of the making of the assessment and of such particulars as they consider necessary in *Iris Oifigiúil*, where the accountable person's whereabouts are unknown. The accountable person or that person's personal representative is deemed to have been served with notice of the assessment on the date of publication; (5)

make an assessment, correcting assessment or additional assessment from any return or additional return delivered under *section 46* or from any other information in their possession or from any one or more of these sources. (6)

The period within which the Revenue Commissioners can raise an assessment, a correcting assessment or an additional assessment is restricted to a period of 4 years from: (6A)

- (i) 31 December in the year in which the return is received or
- (ii) the date the return is received in the case of discretionary trust tax

The restriction in subsection 6A will not apply where: (6B)

- (a) fraud or neglect is involved. For the purposes of this subsection, neglect includes a failure to deliver a correct return, or
- (b) an event occurs after a return has been received and needs to be taken into account.

The Revenue Commissioners will make assessments of tax as to the best of their knowledge, information and belief ought to be charged. The information which may be used can include information received from a member of the Garda Síochána. (7)

The Revenue Commissioners are not precluded from making an assessment of tax, a correcting assessment of tax or an additional assessment of tax under this section notwithstanding the requirement to self-assess tax under *section 46*. (8)

50 Computation of tax

This section provides that gift tax and inheritance tax are to be computed in accordance with *Schedule 2*. The assessment provisions relating to the 6% and 1% charges imposed on certain discretionary trusts are contained in *sections 18* and *23* respectively.