

# **A Guide to completing the Inland Revenue Affidavit (Form C.A.24)**

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# Glossary

<b>Administrator:</b>	Person responsible for finalising a deceased's affairs.
<b>Beneficiary:</b>	Person entitled to benefit, i.e. gift or inheritance.
<b>C.A. 24:</b>	Inland Revenue Affidavit.
<b>Codicil:</b>	An instrument executed by a testator for adding to, altering, explaining or confirming a will previously made by him/her.
<b>Death benefit:</b>	Monies payable on the death of a deceased e.g. superannuation, insurance policy, lump sum.
<b>Devise:</b>	Real Property e.g. land, buildings passing under a will.
<b>Disponer:</b>	Person who provided the gift or inheritance.
<b>Disposition:</b>	Mode by which property passes, e.g. will, intestacy, survivorship, nomination, deed.
<b>District Probate</b>	
<b>Registries:</b>	Probate Offices in the provinces.
<b>Domicile:</b>	The country/State in which a person is or is presumed to be permanently resident. It depends on the physical fact of residence plus the intention of remaining.
<b>Estate:</b>	All assets, e.g. house, land, bank accounts, stocks & shares, livestock, jewellery, car etc. of a deceased person.
<b>Executor:</b>	Person authorised by a will to finalise a deceased person's affairs and distribute his/her estate. The executor has authority to act from the date of death. Any other personal representative has authority to act only when a Grant of Administration is obtained.
<b>Free use:</b>	Having the use and enjoyment of property either for no consideration or for less than full consideration.
<b>Grant of Probate:</b>	Grant of representation where there is a will.
<b>Grant of Representation:</b>	In order to obtain legal authority to administer a deceased person's estate, the proposed personal representative must apply to the Probate Office/District Probate Registry (where applicable) for a document called a Grant of Representation. The Grant of Representation acts as an assurance to financial institutions (e.g. banks, building societies, credit unions, etc.) that they can safely place the deceased's assets in the hands of the person named as personal representative in the grant.
<b>Improvidence:</b>	Failure to look ahead. Carelessness in providing for the future. A lack of prudence and care by someone in the management of resources.
<b>Inland Revenue</b>	
<b>Affidavit:</b>	An account of the deceased's assets, liabilities, beneficiaries etc.
<b>Intestacy:</b>	Dying without leaving a will.
<b>Joint tenancy:</b>	The ownership of property by two or more persons who have the same interest in the whole property, without any separate shares. On the death of one joint tenant, his/her share passes automatically to the surviving joint tenant(s).
<b>Keyman policy:</b>	Policy taken out by a company or organisation on the life of a key person in the company or organisation.
<b>Letters of</b>	
<b>Administration:</b>	A grant of representation where no will exists.
<b>Life tenant:</b>	Person given property for the duration of his/her life.
<b>Limited interest:</b>	An interest is less than an absolute interest, i.e. for life or for a certain period.
<b>Nationality:</b>	Nationality represents a person's political status by virtue of which he/she owes allegiance to some particular country.

<b>Nomination:</b>	Nominated property is any property which the deceased placed in the name of another person for their benefit on his/her death. Nominated property passes directly to that person in accordance with the rules/regulations under which it was invested and it does not pass to the deceased's personal representative(s) to be distributed according to the will/intestacy.
<b>Ordinary residence:</b>	The term "ordinary residence" is used in relation to a person's normal place of residence. An individual who has been resident in the State for three consecutive years becomes ordinarily resident with effect from the commencement of the fourth year. An individual who is ordinarily resident in the State for three consecutive years becomes ordinarily resident until he/she has three consecutive years in which he/she was not resident in the State.
<b>Personal representative:</b>	The person responsible for managing the deceased's affairs.
<b>Power of revocation:</b>	Where a gift is given in the lifetime of a disponent that he/she retains a right to revoke i.e. take it back at any time.
<b>Probate Office:</b>	An office within the Court Service under the jurisdiction of the High Court whose function is to prove wills and to issue Grants of Representation.
<b>Quoted shares:</b>	Shares quoted on the stock market.
<b>Relatives of the half blood:</b>	One person is said to be of the half blood to one another when they are descended from one common ancestor only, e.g. two brothers who have the same father but different mothers.
<b>Remainderman:</b>	Person who takes an absolute interest in property on the cessation of a limited interest. i.e. coming to an end, of a limited interest.
<b>Survivorship:</b>	The right of a person to property by reason of having survived another person who had an interest in it, e.g. on the death of a joint tenant, the survivor inherits the property.
<b>Strangers in blood:</b>	Persons who have no tie between them by blood or valid marriage.
<b>Tenancy in Common:</b>	Where two or more persons have a specific share in property. On the death of a tenant in common, his/her share does not pass automatically to the surviving tenant (as with a joint tenancy) but instead passes under the terms of the deceased's will (if any) or by intestacy (if none).
<b>Testator:</b>	Person who makes a will.
<b>Trustee:</b>	Person who holds property on trust for another.
<b>Unquoted shares:</b>	Private company shares which are not quoted on the stock market.
<b>Will:</b>	Declaration by which the person (testator) making it provides for the distribution of his/her property after his/her death.

# General

## About this Guide

This Guide follows the same sequence and numbering systems as the Inland Revenue Affidavit and takes you step-by-step through each part of the form. It also gives a brief explanation of some key concepts along the way. It is not a legal interpretation of the Law. If you are applying for a Grant of Representation on a personal basis you may need to take legal advice when completing this document. It is important to note that neither the Probate Office nor the Revenue Commissioners may give you legal advice.

References to the Act and to sections of the Act throughout the Inland Revenue affidavit and this Guide are, unless otherwise stated, references to the Capital Acquisitions Tax Consolidation Act, 2003 and to its sections.

The expression 'The State' throughout the Inland Revenue Affidavit and this Guide is to be interpreted, having regard to Article 3 of the Constitution, as referable to the area to which the laws of Ireland have application.

## Introduction

To obtain a Grant of Representation from the High Court in respect of a deceased person two original Inland Revenue Affidavit (Form C.A. 24) must be completed and sworn/affirmed by the personal representative of the deceased person.

These two original affidavits must be forwarded to the Probate Office/District Probate Registry (where applicable) together with the appropriate documentation to obtain such Grant.

As a general rule, the Inland Revenue Affidavit and all other appropriate legal documentation necessary to obtain the Grant of Representative are submitted by a solicitor acting on behalf of the personal representative. However, in some cases, it may be possible for the personal representative to make a personal application for a Grant of Representation by contacting The Probate Office, Phoenix House, 15-24 Phoenix Street North, Smithfield, Dublin 7, telephone 01-8886174/ 01-8886728 or the District Probate Registry for the district where the deceased, at the time of his/her death, had a fixed place of abode.

Where an intended applicant is resident outside of the jurisdiction, please note that in some situations it is not possible to proceed on a personal basis for a Grant of Representation.

## Inheritance Tax

Inheritance tax is a tax which may arise where a beneficiary receives an inheritance on someone's death. The tax implications are linked to the residence or ordinary residence of either the disponer or beneficiary. This is dealt with in more detail in Part 1 - Information relating to the deceased, Question 10. A distinction is made between surviving spouses and other beneficiaries.

An inheritance taken by a surviving spouse from a deceased spouse is completely exempt from tax since 30 January 1985. In the case of other beneficiaries, liability to inheritance tax depends on whether or not the total value of all gifts and inheritances received by a beneficiary from the deceased, and from anybody else within the same "group threshold" in the period from 5th December 1991 up to and including the date of the current benefit exceeds a tax-free element called the "threshold" amount.

The relationship between the disponer and the beneficiary at the date of the inheritance determines the maximum tax-free amount - known as the "group threshold".

Taxable inheritances taken on or after 1st December 1999 are liable to tax as follows:

Group threshold amount	nil	
From 01/12/1999 to 19/11/2008:	Balance at	20%
From 20/11/2008 to 07/04/2009:	Balance at	22%
From 08/04/2009:	Balance at	25%

## Notes on Relationships, Group thresholds and Indexation.

The relationship types are:

- ▲ Child
- ▲ Brother
- ▲ Sister
- ▲ Parent
- ▲ Grandchild
- ▲ Great-grandchild
- ▲ Grandparent
- ▲ Child of a brother or sister
- ▲ Minor child of a deceased child of the disponer
- ▲ Stranger in blood

## The group thresholds applicable are -

Year	Class A:	Class B:	Class C:
	€	€	€
2010	414,799	41,481	20,740
8/4/09 - 31/12/09	434,000	43,400	21,700
1/1/09 - 7/4/09	542,544	54,254	27,127
2008	521,208	52,121	26,060
2007	496,824	49,682	24,841

The group thresholds for other years can be obtained by contacting our CAT Taxpayer information Service at;

Local phone 1890 20 11 04  
E-Mail [catdr@revenue.ie](mailto:catdr@revenue.ie)  
Website: <http://www.revenue.ie/en/tax/cat/index.html>  
Address Capital Acquisitions Tax  
Taxpayer Information Service  
1st Floor  
Central Revenue Information Office  
Cathedral Street  
Dublin 1

### Group A

The group A threshold applies where the beneficiary is -

- ▲ A child, or a minor child of a deceased child of the disponent (minor means under the age of 18 years). The term "child" includes a stepchild or an adopted child (under the Adoption Acts).
- ▲ A foster child will also qualify for the Group A threshold in respect of a benefit taken on or after 6 December 2000 if he/she was cared for and maintained at the disponent's expense from a young age up to the age of 18 for period(s) amounting to at least 5 years and also resided with the disponent. The 5 year requirement will not apply in the case of a formal fostering under the relevant Child Care Regulations where the foster child inherits on the death of a foster parent. Claims for the relief by a foster child will have to be supported by the testimony of two witnesses.
- ▲ Parents taking an absolute inheritance from a child have a Group A threshold. However, if the child took a non-exempt gift or inheritance from either parent in the previous five years, any inheritance taken by a parent from that child is exempt.
- ▲ An adopted child taking an inheritance from a natural parent is entitled to the Group A threshold. He/she is also entitled to the Group A threshold from his/her adoptive parents.

### Group B

The Group B threshold applies where the beneficiary is -

- ▲ a lineal ancestor e.g. parent\* or grandparent:  
\*The group B threshold applies where a parent takes a gift or limited interest in an inheritance.
- ▲ a lineal descendant e.g. a grandchild or great-grandchild;
- ▲ a brother or sister;
- ▲ a child of a brother or sister of the disponent.

**Note:** In certain circumstances, a grandchild can qualify for the Group A threshold (rather than the Group B) if the benefit is taken on the death of the beneficiary's parent under a disposition made prior to 1 April 1975 where the consideration for the disposition was the marriage of the parents of the beneficiary. The disponent is the grandparent of the beneficiary.

### Group C

The Group C threshold applies to "strangers" i.e. where the relationship between disponent and beneficiary falls outside either Group A or Group B.

**Note:** In certain circumstances, the beneficiary may take the threshold of his/her deceased spouse where that spouse has pre-deceased the disponent and was of nearer relationship to the disponent, e.g. a daughter-in-law of the disponent can qualify for the Group A (rather than the Group C) threshold if her husband pre-deceased the disponent.

### Example

On the death of Mary Smyth in September 2009, her entire estate (valued at €500,000) was left to her daughter-in-law, Anne Smyth. Anne's husband, Thomas, had pre-deceased his mother. In these circumstances, the class threshold that applies to the benefit is €434,000 (Group A) and not €21,700 (Group C)

# **How to Complete the Inland Revenue Affidavit**

# Part 1 - Information relating to the deceased

## 1. Forename and surname of the deceased:

Enter the deceased person's full forename and surname.

## 2. PPS number:

Enter the deceased's PPS number.

Lack of a PPS number will result in the Affidavit being returned to the executor/solicitor, thereby causing a delay in the processing of the application for the Grant of Representation.

PPS numbers (formerly RSI numbers) will normally be available from any documentation received either from the Inspector of Taxes (e.g. tax-credit certificate or notice of assessment) or from the Department of Social Protection.

Clients requiring PPS numbers can call into their nearest Department of Social Protection Local or Branch Office. They will be required to produce valid ID. e.g. long birth certificate and other supporting documentation.

Where a PPS number is required for a deceased person or for beneficiaries resident overseas, solicitors or executors should contact Client Identity Services in the Department of Social Protection directly by:

Telephone 1890 927 999, or

E-mail [cis@welfare.ie](mailto:cis@welfare.ie)

Identity information will be required before numbers can be issued.

PPS numbers will also be required for all beneficiaries (including those resident overseas) listed in Part 8 of the Inland Revenue Affidavit.

## 3. Address:

Enter the deceased's last known permanent address.

## 4. Date of death:

Enter the date of death of the deceased, e.g. DD/MM/YYYY.

## 5. Date of birth:

Enter the date of birth (if know) of the deceased, e.g. DD/MM/YYYY.

## 6. Place of death:

Enter exact place where death occurred as it appears on the Death Certificate, e.g. home address, address of hospital, nursing home, etc.

## 7. Occupation:

Enter the deceased's principal occupation, e.g. Farmer, Civil Servant, Solicitor. If retired, enter the former principal occupation, e.g. "Retired Farmer".

## 8. Domicile at death

Enter the domicile of the deceased at the date of death.

Domicile is a concept of general law which is distinct from nationality or residence. A person may be resident in more than one country but, generally, may only be domiciled in one at any given time.

When an individual is born he/she acquires a domicile of origin and this remains with him/her throughout his/her life unless it is replaced by a domicile of choice by moving to another country with the intention of residing there permanently.

If a domicile of choice lapses as a result of permanently leaving the country in which the domicile of choice exists, the domicile of origin is re-activated until replaced by another domicile of choice.

It should be noted that the U.S.A. is not a recognised domicile area. Each State of the United States of America is a separate domicile area. If the deceased died domiciled in one of the States of the U.S.A., enter the name of that State, e.g. New York State, U.S.A. or State of Florida, U.S.A.

**Where issues arise on domicile you must obtain legal advice.**

## 9. Domicile of origin:

Enter the deceased's domicile at birth.

## 10. If the deceased was resident or ordinarily resident in the State at the date of death place in the appropriate box.

All property situated in the State is within the charge to Irish inheritance tax regardless of the residence or ordinary residence of either the deceased and/or the beneficiaries.

With effect from 1st December 1999, where the estate comprises foreign assets (See Part 5 of the Inland Revenue Affidavit), the territorial scope of inheritance tax is determined by reference to the residence or ordinary residence of the deceased and/or the beneficiary, i.e. foreign assets comprised in or forming part of an inheritance are liable to inheritance tax where either the disponent or the beneficiary is resident or ordinarily resident in the State. However, in the case of foreign domiciled persons, transitional arrangements apply until 1st December 2004. This means that where the deceased or the beneficiary is foreign domiciled at the date of death and the death occurs before 1st December 2004 then he/she will not be treated as resident or ordinarily resident in the State.

With effect from 1st December 2004, a foreign domiciled person will not be considered resident or ordinarily resident in the State unless he/she was resident for the five consecutive years of assessment preceding the date of the benefit and on that date is either resident or ordinarily resident in the State.

(See table at Appendix 2 setting out the tax implications in relation to foreign property before 1st December 2004).

**Note:** Particular attention is drawn to an exception to the above rules in respect of inheritances taken from U.S. domiciled disponents. Where a disponent dies domiciled in any of the States of the U.S.A., no liability to Irish inheritance tax arises in respect of foreign property.

### Residence

An individual will be regarded as being resident in the State for a year if he/she:

(a) spends 183 days or more in the State in that year;

or

(b) has a combined presence of 280 days or more in the State in that year and in the preceding year.

An individual must be resident in the State for more than 30 days in either year to establish residence based on the above combination. If a person is not resident for more than 30 days in a year as above, the actual period of residence which is less than 30 days in that year is not taken into account in applying the aggregate test.

An individual is deemed to be present in the State for a day if he/she is present in the country at midnight in respect of years up to 2008. From 01/01/2009, an individual is deemed to be present in the State for a day if he/she is present at any time during that day.

A non-resident individual coming to Ireland who can show that he/she intends to remain here and be resident in the following year, may elect, in writing, to be treated as resident for the year of arrival.

### Ordinary residence

The term "ordinary residence" is used in relation to a person's normal place of residence.

An individual who has been resident in the State for three consecutive tax years becomes ordinarily resident with effect from the commencement of the fourth year.

An individual who is ordinarily resident does not cease to be ordinarily resident until he/she has had three consecutive years in which he/she was not resident in the State.

## 11. Marital status

Place  in the appropriate box to indicate marital status. The "legally separated" question is relevant where the deceased was separated under law, whether by Separation Agreement or by Court Order. The reply to this question will alert the Probate Office that the succession rights of a surviving spouse may have been relinquished under a Separation Agreement or Court Order and, as such, that person may not be entitled to take out a Grant of Probate/Letters of Administration.

## 12. Relatives surviving:

Place  in the appropriate box to indicate relatives surviving. (see relationship types at Introduction, Inheritance Tax).

### Contact Details

Please insert the name, address, telephone number, DX number, email address (if any) of the solicitor instructed in this estate or the personal representative who is applying for the Grant of Representation herein.

## Part 2 - Details of the applicants

It is important that this document is sworn by the correct applicant(s).

Where the deceased person leaves a will, the correct applicant for a Grant of Representation (i.e. Grant of Probate) of the deceased's estate is the executor/executrix. Where the executor/executrix is not applying for the Grant, please note that you must obtain legal advice to ascertain who is the correct person to apply for the Grant as this will depend on the terms of the will in each individual case.

Where the deceased does not leave a will, the nearest next of kin of the deceased person as at his/her date of death is generally the person entitled to apply for the Grant of Representation. In some intestacy situations, the Probate Office/District Probate Registry may be able to assist you on questions of entitlement. Contact details appear at Appendix 1. Some situations will require legal advice.

Please note that some applicants who are resident outside of the jurisdiction must instruct a solicitor in the State to extract a Grant of Representation.

Please insert applicant's name, address, occupation and relationship to deceased.

## Part 3 - Sworn declaration

Persons who do not wish to swear this document on oath may affirm.

1. Indicate which Grant you are applying for by placing  in the appropriate box

Where there is a will and the executor is applying

- Probate of the deceased's will

Where there is a will and the executor is not applying

- Administration with will annexed of the deceased's estate

Where there is no will

- Administration intestate of the deceased's estate

Contact Probate Office/District Probate Registry for information on Nominal Grants.

2. Insert Surname and Forename of Applicant, address of place where document is being sworn/affirmed, date of signing.

The Inland Revenue Affidavit must be sworn/affirmed by the applicant and witnessed by a Commissioner for Oaths, a practising solicitor or (where the applicant is applying in person for a Grant) a Court Clerk/Probate Registrar.

## Part 4 - Property in the State passing under the Will/Intestacy of the deceased

Copy of the Will/Codicil (if any) must be attached.

This Part is a schedule of all the assets in the State which the deceased owned and which are passing under his/her will or under the rules of intestacy.

The preamble (see type in brackets immediately beneath Part 4 heading in Form C.A. 24) to include "property passing under Part IX or section 56 of the Succession Act, 1965 etc." relates to the need for executors/administrators to take into account the implications of a spouse's right to acquire the family home - Section 56 of the Succession Act, 1965 - and the rights of the spouse and children to be adequately provided for - Part IX of the Succession Act, 1965.

**Where questions arise regarding this piece of legislation, you must obtain legal advice.**

### 1. Real and leasehold property

Enter the gross market value at the date of death of immovable assets, i.e. houses, apartments, lands etc. falling within the deceased's Irish estate.

These properties must be detailed in the Schedule of Lands and Buildings in Part 7 of the Inland Revenue Affidavit.

### 2. Household contents

Enter gross market value of household contents, e.g. furniture, antiques, jewellery, paintings etc.

### 3. Cars/boats

Enter the gross market value of cars/boats

#### 4. Business assets not included elsewhere in this Part

- (a) Enter gross market value of farming assets, e.g. livestock, bloodstock, farm implements, machinery etc.
- (b) Enter gross market value of other business assets, e.g. goodwill, plant and equipment, stock-in-trade, book debts, etc.

#### 5. Assets with financial institutions (e.g. banks, building societies, insurance companies, post office, credit unions etc.)

Enter name and branch of each financial institution in which accounts are held.

Enter account numbers or other reference numbers.

Enter amount in each account at the date of death.

Property passing by nomination or survivorship should not appear here but should be included in Part 6, Question 1 and 2.

#### 6. Proceeds of life insurance policies

Enter the name of the institution, policy number and gross value of the proceeds at date of death.

If insurance policies are payable to the estate on the death of the disponent, they should be detailed here. However where the benefit is not payable to the estate but to named beneficiaries, the amount should not appear here but should be included in Part 6, Question 3.

#### 7. Debts owing to the deceased

Enter the name and address of the debtor and amount owing to the deceased at the date of death.

#### 8. Stocks, Shares and Securities

##### Quoted

**Description** (including unit of quotation, size of holding and quoted price per unit)

Quoted shares are shares quoted on the stock market.

Enter description

Example:

Name of Company	Unit of quotation	No. of shares	Quoted price per unit
Arnotts plc	Ordinary Eur €1.27	2000	€6.42

Enter gross market value at the date of death

**Dividends accruing to the estate.** Where shares are quoted "ex-dividend", the dividend should also be included. Enter amount of dividend.

#### 9. Unpaid purchase money of property contracted to be sold in the deceased's lifetime

An example of this is where the deceased had signed a contract for the sale of property and had died before the proceeds of sale were paid over.

Enter the gross market value.

#### 10. Any other property not already included

Enter a description and gross market value of any other property to which the deceased was entitled.

Enter Total Gross Irish Estate at (A)

#### 11. Irish debts owing by the deceased and funeral expenses payable in the State

Enter details of all debts due by the deceased to persons resident in the State, or to persons resident outside the State but contracted to be paid in the State, or charged on property situated within the State.

Enter Total Irish debts at (B)

Enter Total Net Irish Estate at (A-B)

With the exception of funeral expenses (including costs for a headstone and funeral meals, provided they are reasonable), no other costs or expenses incurred after the date of death may be deducted.

# Part 5 - Property outside the State passing under the Will/ Intestacy of the deceased

(Include also any property passing under Part IX or section 56 of the Succession Act, 1965, or under any analogous law)

This Part is a schedule of all the assets which the deceased owned outside the State and which are passing under his/her will or under the rules of intestacy.

Please see commentary on Question 10, Part I (Residence/ordinary residence) relating to the tax implications of foreign property.

## 1. Description and local situation of the property

Enter details of all assets owned outside the State by the deceased.

Enter Gross Foreign Estate at (C)

## 2. Foreign debts and funeral expenses

Enter details of debts due to persons resident outside the State, other than debts contracted to be paid in the State, or charged on property within the State which have been deducted in Part 4.

Enter Total Debts at (D)

Enter Net Foreign Estate at (C-D)

**Note:** In the event that foreign property becomes liable to inheritance tax in this country and to tax of a similar nature on the same event in the country where the property is situated, provision exists for relief from double taxation.

## 3. Net US Property exceeding €20,000

Enter the net value of all such property.

## 4. Net UK Property exceeding €63,500

Enter the net value of all such property.

# Part 6 - Questionnaire

The purpose of Part 6 is to find out if any claims to inheritance/gift tax arise outside the will or intestacy. It captures information in relation to property which may be passing to beneficiaries other than those named in the will or under an intestacy. This property may be derived either from the deceased or from a different disponent altogether, the deceased's death being the trigger for the passing on of the benefit which may give rise to a charge to tax.

## Question 1

**Was there any property (e.g. lands, house, business, monies in bank, securities etc.) in the joint names of the deceased and another (or others) at the date of death?**

Place  in the appropriate box to indicate "yes" or "no". If yes, provide in relation to each item the following information:

**(a) full particulars of the property**, e.g. in the case of:

Lands - the address of the property, area in hectares (1 hectare = 2.47 acres), whether agricultural, development or a mix of both, site etc.;

House - description, e.g. dwelling-house, farm house and address of the property;

Business - address of the business, nature of the business (e.g. newsagent's shop, partnership, or shares in ABC Ltd. etc.);

Monies in bank - account number, name and branch of bank;

Securities - description, including unit of quotation, size of holding and quoted price per share.

## Example

Name of Company	Class of share	No. of shares	Price per share
Green Property Co. plc	Ordinary €0.63	2,300	€6.94

**(b) its total value**, e.g. in the case of:

- lands, house etc. - the market value at the date of death;

- monies in bank, securities etc. - the amount in the account(s) at the date of death.

**(c) name(s) of the other joint holder(s)** - Enter the name(s) of the surviving joint holder(s).

**(d) relationship to the deceased** - Enter the relationship of the joint holder(s) to the disponent.

**(e) date the property was put into joint names**, e.g. DD/MM/YYYY

**(f) \*by whom and in what shares the property was provided**, e.g.

entirely by the deceased, or

percentage share provided by the deceased and by the joint holder etc., or

under the will of the deceased's father, brother etc;

**(g) \*purpose of putting the property into joint names, e.g.**

for convenience due to incapacity of the deceased, or

to enable the joint holder to benefit on the death of the deceased, or

for the benefit of the deceased and joint holder etc.

**(h) \*how and in what shares the income from the property was dealt with or enjoyed**, e.g.

solely by the deceased, or

equally by the joint holders etc.

**(i) \*title under which the property passes**, e.g. will/intestacy/survivorship.

*\*Where the money or other property in joint names was provided by the deceased this may, depending on the actual or legally presumed intention, have given rise to a resulting trust in the deceased's favour.*

(See explanation of resulting trust below).

### **Joint property**

Joint property is property held in the joint names of two or more people. The property can be real property (e.g. land and buildings) or personal property (e.g. bank accounts). The liability to tax in respect of property in joint names depends on the beneficial interest of each of the parties in the relevant property. Property in joint names will usually be held under a joint tenancy or a tenancy in common.

Benefits taken under this heading must be summarised in Part 8.

### **Joint tenancy**

Joint tenancy means that two or more people have an interest in the property, but do not own their share outright since the title to the property includes the title of the other joint owner(s). A joint tenant cannot sell, gift or lease his/her share of the property without severing the joint tenancy. On the death of one of the joint tenants, the deceased person's share will automatically pass by survivorship to the surviving joint tenant. The deceased person's share is not an asset of the estate and should not be included in Part 4 or 5 of the Inland Revenue Affidavit. The benefit taken by the survivor can however have tax implications depending on the amount, group threshold etc. (See Introduction, Inheritance Tax).

The survivorship principle normally applies to real property but it can also apply to personal property, e.g. joint bank accounts. However, in certain circumstances, the survivorship principle may not apply and a resulting trust may arise.

### **Resulting Trust (see footnote to Question 1)**

Where the presumption of a **resulting trust** arises, property, although held jointly, will not pass automatically to the survivor but will revert instead to the estate of the deceased to be distributed according to the will/intestacy.

In cases where money is placed in the joint names of the disponent and somebody else, there is a presumption in law that a resulting trust exists in favour of the person who provided the funds. This means that it is legally presumed that the portion of the money provided by the deceased in the account forms part of the deceased's estate and does not automatically go to the other account holder(s). Where the surviving account holder claims title by way of survivorship, the onus of proving that the joint property should pass by survivorship rests with the survivor. The presumption of resulting trust, being only a presumption, can be rebutted by evidence of a contrary intention on the part of the person who provided the funds or by a presumption of advancement.

### **Tenancy in common**

Tenancy in common means that the portion of the joint property (normally land or buildings) held by each person is owned separately by that person. The joint owner can sell, gift, lease or otherwise dispose of his/her share of the property as he/she wishes. When a tenant in common dies, his/her share of the property passes according to his/her will or intestacy and does not pass automatically to the surviving tenant(s) in common. It is therefore an asset of the estate and should be included in Part 4 or 5 of the Inland Revenue Affidavit, as appropriate.

Benefits taken under this heading must be summarised in Part 8.

**Note:** Banks, building societies and other financial institutions are prohibited by law from releasing monies (other

than current accounts) lodged or deposited in the joint names of the deceased and another person or persons in the absence of a letter of clearance, Form I.T.8, from the Revenue Commissioners. This applies if, at the date of death, the total of all the amounts standing with the institution in the joint names of the deceased and that other person or persons exceeds €50,000 (Section 109 of the Capital Acquisitions Tax Consolidation Act, 2003). The requirement does not apply, however, to monies which have been held in the joint names of the deceased and his/her surviving spouse. The letter of clearance should be requested from the Revenue Commissioners.

## Question 2

**Did any person benefit on the death of the deceased under a nomination at any time made by the deceased?**  
Place  as appropriate to indicate "yes" or "no".

**Nominated property** is any property which the deceased placed in the name of a person for their benefit on his/her death. Nominated property passes directly to the nominee in accordance with the rules/regulations under which it was invested and it does not pass to the deceased's personal representative to be distributed according to the will/intestacy.

If the reply to this question is "yes", provide the following full particulars:

- (i) description of the holding
- (ii) the name of the beneficiary
- (iii) the value of the nomination

Nominated property can give rise to inheritance tax and benefits taken under this heading are required to be summarised in Part 8.

## Question 3

**Did any monies, (capital sum, annuity, etc) other than those (if any) included in Part 4 or 5, become payable on or by reference to the death of the deceased under the provisions of any superannuation scheme (whether ex-gratia or not), policy of insurance etc.?**

This question identifies the existence of benefits such as annuities, death benefits, policies of insurance etc., passing to specifically named beneficiaries on the death of the deceased, for example:

- Proceeds of a keyman or co-director's policy payable to a business partner;
- Death-in-service gratuity or superannuation scheme payable by the deceased's employer to named persons;
- Annuities/pensions payable to named individuals.

Place  in the appropriate box to indicate "yes" or "no".

Enter the description of the holding.

Enter the name of the beneficiary.

Enter the amount/value taken by each beneficiary.

Enter, in the case of annuities, the amount and term of annuities, e.g. €5,000 each year for 10 years.

Indicate, in the case of insurance policies, who paid the premiums, if not the deceased alone.

Benefits passing under this heading should not be included in Part 4 or 5 of the Inland Revenue Affidavit. However there may be tax implications depending on the amount, group threshold etc. (See Introduction, Inheritance Tax).

## Question 4

**(a) Was the deceased in receipt of any Social Welfare payments?**

Place  in appropriate box to indicate "yes" or "no".

**If yes, state the claim no.** This will be available from any documentation e.g. pension book, received from the Department of Social Protection.

**(b) Has the Department of Social Protection any claim against the estate of the deceased?**

Place  in appropriate box to indicate "yes" or "no".

Under the Social Welfare Consolidation Act, 2005, the personal representative is obliged to inform the Minister for Social Protection of details of the assets of deceased persons who were in receipt of Social Welfare payments at any time during their life.

This information must be given not less than three months prior to distributing the assets in the estate.

It is designed to discover if the deceased, because of the level of assets owned, may not have been entitled to means tested Social Welfare payments. In such cases, the personal representative is obliged to refund any overpayments to the State.

## Question 5

### Was the deceased survived by a spouse?

If so, state the position as to election under Section 115 of the Succession Act, 1965.

A surviving spouse may elect to take a legal right share under Section 115 of the Succession Act, 1965. This can occur if the deceased did not make adequate provision for the surviving spouse in his/her will.

By law, the surviving spouse is entitled to a share in the deceased spouse's estate and the entitlement is one-third where there are children and two-thirds where there are none. There is time limit in which the surviving spouse may elect and the executor is obliged to notify him/her in writing of his/her right of election within the specified period. The surviving spouse must exercise his/her right within six months of receipt of such notification or one year from the first taking out of representation of the deceased's estate, whichever is the later.

Where a surviving spouse elects to take the legal right share, there may be implications for the beneficiaries of the will, since the legal right share of the surviving spouse takes priority.

**Note** that election is not material in an intestacy, since the surviving spouse is automatically entitled to two-thirds of the estate where there are children and to the entire estate where there are none.

**In the event of uncertainty regarding this section of the legislation you must take legal advice.**

## Question 6

### Was the deceased in receipt of payments under the Nursing Home Support Scheme?

Place  in appropriate box to indicate "yes" or "no".

If yes, please indicate if the HSE has any claim against the estate of the deceased.

The purpose of the question is to prompt the personal representative that there may be a liability under this scheme and to ensure that the liability is reflected in the application for a Grant of Representation. Any liability must be paid to the Revenue Commissioners.

## Question 7

### Was the deceased at the date of death the owner of a limited interest (e.g. an annuity, right of residence, or and interest for life or otherwise in house, lands, securities etc.)?

Place  in appropriate box to indicate "yes" or "no".

**A limited interest** arises where a person is given the beneficial ownership of property either for life or for some other specified period under a settlement or a will made by another person or by a settlement made by the deceased in his/her lifetime.

If the deceased had such an interest in property, it is now, on his/her death, passing or reverting to someone else (remainderman) in accordance with the terms of the original instrument creating that interest.

The person who now takes the benefit on the death of the deceased inherits from the person who created the original settlement (settlor).

#### Example

- John (settlor) died in 1985 and in his will left his farm to his son, Mark (life tenant) for his lifetime.
- Mark is the deceased person in respect of whom this Inland Revenue Affidavit is being filed.
- John left the remainder interest to his grandson, Liam (remainderman).
- On the death of Mark, Liam inherits an absolute interest in the farm from his grandfather, John.
- Liam takes the Group B threshold and pays tax on the value of the farm at the date of Mark's death.

If the reply to this question is "yes", provide full particulars in the panel titled "FULL PARTICULARS" including:

- (i) the name, address and PPS number of the person who created the limited interest and, if dead, the date of death;
- (ii) the names and addresses of the trustees for the settlor and of the solicitors acting for them;
- (iii) the names, addresses and PPS numbers of the beneficiaries now coming into possession of the relevant property;
- (iv) the relationship between the beneficiaries and the person who created the life interest (settlor);
- (v) particulars and estimated values of the property involved at the date of the deceased's death.

## FULL PARTICULARS

*(applicable if the answer to any of questions 7 - 12 above is Yes)*

Question 7. Example of particulars required where the reply to this question is "yes".

John Byrne (settlor), Summerhill, Kilrush, Co. Clare (PPS number 0000000T) who died on 22/02/1989 created a life interest for his son, the deceased (Mark Byrne).

Trustees: Michael Sullivan, Summerhill, Kilrush, Co. Clare.

Solicitors for trustees: Burke & Co., Main Street, Kilrush, Co. Clare.

Beneficiary: Liam Byrne, Kilmurry, Co. Clare (PPS No. 1234567K).

Relationship to settlor: grandson.

Particulars of property: Residential farm value €2,100,000, at Summerhill, Co. Clare - 105 hectares.

### Question 8

**Did any person, on or after 5 December 1991 under a disposition (e.g. a transfer or settlement) at any time made by the deceased, take:**

#### (a) a gift?

Place  in appropriate box to indicate "yes" or "no".

The purpose of this question is to identify any **prior gifts** given by the deceased during his/her lifetime.

The relevance of the date "5th December 1991" is that gifts and inheritances taken on or after that date by the same beneficiary from any source within the same "group threshold" aggregate with (are added to) the current benefit.

If the reply to this part of the question is "yes", provide full particulars in the panel titled "FULL PARTICULARS" including:

- (i) the date of the gift;
- (ii) the names, addresses and PPS numbers of the beneficiaries;
- (iii) the relationship between the deceased and the beneficiaries;
- (iv) particulars and estimated values of the property involved.

## FULL PARTICULARS

*(applicable if the answer to any of questions 7 - 12 above is Yes)*

Question 8(a). Example of particulars required where the reply to this question is "yes"

In September 1999, the deceased made a gift to:

Beneficiary: Tom Moylan, Laurencetown, Co. Mayo (PPS No. 0123456S)

Relationship to deceased: nephew

Particulars: Cash gift €40,000

**(b) any other\* benefit in possession (other than a property disclosed in Parts 4 or 5 or in reply to questions 1, 2 or 3 in this Part)?**

\*e.g. the taking of a remainder interest on the death of a life tenant.

Place  in appropriate box to indicate "yes" or "no".

The purpose of this part of the question is to find out if, for example, any person took a remainder interest under a settlement made by the deceased for whom this Inland Revenue Affidavit is lodged.

#### Example

- Under a settlement dated 1st December 1995, John Byrne, the deceased (settlor), transferred a farm to his brother, William (life tenant) for his life.
- John left the remainder interest to William's son, Martin (remainderman).
- William (life tenant) died on 5th January 2006.
- On the death of William, Martin inherited an absolute interest in the farm from his uncle, John Byrne.

If the reply to this part of the question is "yes", provide full particulars in the panel titled "FULL PARTICULARS" including:

- (i) the date of the settlement creating the life interest;
- (ii) the names and addresses of the trustees (if any);

- (iii) the date of death of the life tenant;
- (iv) the name, address and PPS number of the beneficiary (remainderman);
- (v) the relationship between the settlor and the beneficiary;
- (vi) particulars and estimated values of the property involved at the date of death of the life tenant.

#### FULL PARTICULARS

*(applicable if the answer to any of questions 7 - 12 above is Yes)*

Question 8(b). Example of particulars required where the reply to this question is "yes"

Under a settlement dated 01/12/1995, John Byrne, the deceased, created a life interest for his brother, William (life tenant) with remainder to William's son, Martin.

Trustees: Edward Keane, Keane & Co. Solicitors, Rathgar, Dublin 6.

Life tenant died on 05/01/2006.

Beneficiary: Martin Byrne, Beechwood, Navan, Co. Meath (PPS No. 0000000U).

Relationship to settlor: nephew.

Particulars of property: Farm value €1,720,000, at Coolcarty, Navan, Co. Meath - 86 hectares.

#### Question 9

**Did the deceased at any time make a disposition:**

**(a) subject to a power of revocation?**

Place  in appropriate box to indicate "yes" or "no".

This means that a gift given prior to death could be revoked (taken back) by the disponent during his/her lifetime. An example of this is where the disponent transfers property to someone else but retains the power to take it back at any time during his/her lifetime.

No tax is charged at the date of the disposition on the basis that ownership is deemed to remain with the disponent.

If the disponent (settlor) dies without having revoked the benefit, the beneficiary takes an inheritance on the date of death and is taxed accordingly. However, in addition to the inheritance, the beneficiary is also deemed to take a benefit of "free use" of the property during the period between the date of the original disposition and the date of death of the disponent.

#### Example

- By deed of transfer dated 1st January 2007, Sean transfers a house to Bill but reserves to himself a power to revoke the transfer.
- Sean dies on 5th June 2009 without having exercised the power of revocation.
- Bill is deemed to take an inheritance amounting to the market value of the house at the date of Sean's death.
- Bill is also deemed to take a benefit on 31 December each year from the date of transfer to the date of Sean's death based on the annual value of the property, i.e. annual letting value.

If the reply to this question is "yes", provide full particulars in the panel titled "FULL PARTICULARS" including:

- (i) the date of the deed whereby the property was transferred;
- (ii) particulars of the property and its value at the date of transfer;
- (iii) the names and addresses of the trustees, if any;
- (iv) the name, address and PPS number of the beneficiary;
- (v) the relationship between the settlor (deceased) and the beneficiary;
- (vi) the date the transfer was revoked, if applicable;
- (vii) particulars and estimated values of the property at the date of revocation;
- (viii) if a power of revocation was not exercised, particulars and estimated values of the property at the date of death of the settlor;
- (ix) annual letting value of the property for each year of "free use".

## FULL PARTICULARS

*(applicable if the answer to any of questions 7 - 12 above is Yes)*

Question 9(a). Example of particulars required where the reply to this question is "yes"

By deed dated 01/01/2007, Sean Kelly, the deceased, transferred property subject to a power of revocation. The deceased died without having exercised his power of revocation.

Particulars of property: Dwelling-house at Dunlo Street, Ballinasloe, Co. Galway, value €350,000.

Trustees: John Leonard, Leonard & Co. Solicitors, Main Street, Ballinasloe, Co. Galway.

Beneficiary: Bill Kelly, Dunlo Street, Ballinasloe, Co. Galway. PPS No. 0000006K.

Relationship to settlor: nephew.

Value of property at date of death: €400,000.

Annual letting value: €12,000.

### **(b) by way of surrender (for full consideration or otherwise) of a limited interest?**

Place  in appropriate box to indicate "yes" or "no".

This part of the question is to identify if the deceased had conceded or disposed of any interest due to him/her to the benefit of a third party, i.e. if he/she had not taken the benefit of a life interest available to him/her.

#### **Example**

- Tom is the deceased person in respect of whom this Inland Revenue Affidavit is being filed.
- John died in 2000 and left his dwelling-house to his brother, Tom, for life with remainder to his nephew, Niall.
- In 2007 Tom decided to live in a nursing home and by deed released his life interest to Niall.
- Niall took an absolute interest in the dwelling-house on the date the deed was executed.
- Tom is deemed to have died immediately before the transaction.
- Two charges to tax arose on the deemed death of Tom, i.e.

(i) an inheritance (remainder interest) taken by Niall from John and

(ii) a gift (life interest) taken by Niall from Tom.

Note: If Niall had paid a consideration to Tom on the release of the life interest, this can be offset against any gift tax paid by Niall on the benefit from Tom.

If the reply to this part of the question is "yes", provide the following particulars in the panel titled "FULL PARTICULARS":

- (i) the name, address and PPS number of the person who created the limited/life interest;
- (ii) the name, address and PPS number of the beneficiary (remainderman);
- (iii) the relationship between the person who created the limited/life interest and the remainderman;
- (iv) the names and addresses of the trustees (if any);
- (v) the relationship between the deceased (life tenant) and the remainderman;
- (vi) particulars and estimated values of the property involved at the date of surrender of the limited/life interest;
- (vii) the amount of any consideration paid for the benefit.

## FULL PARTICULARS

*(applicable if the answer to any of questions 7 - 12 above is Yes)*

Question 9(b). Example of particulars required where the reply to this question is "yes"

In 2000 Tom Smith (the deceased) inherited a life interest from his brother John Smith, 65 Grove Road, Dublin 16, PPS No. 00000001

By deed dated 12/01/2007, the deceased released his life interest to the remainderman.

Beneficiary: Niall Smith, Curraghmore, Co. Sligo, PPS No. 7654321T.

Relationship to settlor: nephew.

Relationship to life tenant: nephew.

Trustees: Patrick Wall, Curraghmore, Co. Sligo.

Particulars of property: Dwelling-house at Curraghmore, Co. Sligo, value €350,000 at date of release of life interest.

Consideration paid: none.

**(c) allowing (on or after 5 December, 1991) the use of any property free of charge or for other than full consideration?**

Place  in appropriate box to indicate "yes" or "no".

A charge to tax arises where a person has the use and enjoyment of property for less than full consideration.

If the "free use" is ongoing, a benefit is deemed to be taken on 31 December each year.

**Example**

- Joanne gives the use of her house worth €400,000 to her sister Linda.
- The estimated annual market rent is €15,000.
- Linda pays Joanne €5,000 per annum.
- Linda is deemed to take a gift of €10,000 on the 31st December each year that she has the use of the house and each deemed gift is taken into account for aggregation purposes.

If the reply to this question is "yes", provide the following particulars in the panel titled "FULL PARTICULARS":

- (i) the date on which the "free use" started;
- (ii) the name, address and PPS number of the beneficiary;
- (iii) the relationship between the disponent and the beneficiary;
- (iv) particulars and estimated values of the property involved at the date the "free use" started;
- (v) the annual market rent, i.e. letting value of the property;
- (vi) the amount of any consideration paid.

**FULL PARTICULARS**

*(applicable if the answer to any of questions 7 - 12 above is Yes)*

Question 9(c). Example of particulars required where the reply to this question is "yes"

On 1st January 2007, Joanne Smith (the deceased) allowed the use of her house.

Beneficiary: Linda Smith, 21 Ashlawn, Dublin 22, PPS No. 00000005A.

Relationship to deceased: sister.

Particulars of property: Dwelling-house at 21 Ashlawn, Dublin 22, value €400,000.

Estimated annual letting value: €15,000.

Consideration paid: €5,000 per annum.

**Question 10**

**(a) Did the deceased create a discretionary trust:**

**(i) during his or her lifetime, or**

**(ii) under his or her will?**

Place  in appropriate box to indicate "yes" or "no".

**A Discretionary Trust** can be defined as a trust containing property of any kind, which is held by trustees who have discretionary powers over the appointment of and/or accumulation of income and/or capital. The definition, as contained in Section 2 Capital Acquisitions Tax Consolidation Act 2003 is as follows:

"discretionary trust" means any trust whereby, or by virtue or in consequence of which –

- (a) property is held on trust to accumulate the income or part of the income of the property, or
- (b) property (other than property to which for the time being a person is beneficially entitled for an interest in possession) is held on trust to apply, or with a power to apply, the income or capital or part of the income or capital of the property for the benefit of any person or persons or of any one or more of a number or of a class of persons whether at the discretion of trustees or any other person and notwithstanding that there may be a power to accumulate all or any part of the income.

The settlor, either during his/her lifetime, or in his/her will, transfers property to trustees who may have discretion as to when, and/or to who and/or to what amount, the property comprised in the trust should be given. When a trust is a Discretionary Trust i.e. when there is no immediate and automatic benefit under the trust, the assets in the trust are subject to Discretionary Trust Tax charges during the lifetime of the trust.

Whether the Discretionary Trust was created during the lifetime of the settlor or in his/her will, Discretionary Trust Tax becomes chargeable when the settlor dies and when the youngest "Principal Object" attains 21 years of age.

A "Principal Object" is defined as the settlor's spouse, child or child of a pre-deceased child.

Discretionary Trust Tax is chargeable as follows:

- (i) an immediate once-off 6% charge on the value of the assets in the trust on the valuation date, assuming there are no Principal Objects under the age of 21 years. In the case of a Discretionary Trust created during the lifetime of the settlor, the tax becomes due at the date of death of the settlor. In the case of a Discretionary Trust created under the terms of the will of the settlor, the tax becomes due when the administration in his/her estate has been completed and the extent of the residue has been ascertained.
- (ii) an annual 1% charge arising on 31 December of each year on the value of the assets of the trust at that date (to be paid within 4 months of this date), assuming there are no Principal Objects under the age of 21 years.

**Note:** For years prior to 2006, the chargeable date for the annual 1% charge was 5 April of each year. Under the provisions of the Finance Act 2006, there were 2 chargeable dates in 2006 i.e. 5 April 2006 and 31 December 2006. Tax at the latter date was chargeable at 73.97% of the tax charged at 1%. For each subsequent year, the chargeable date is 31 December.

**Note:** This charge does not apply where 31 December occurs in the twelve months immediately following the date on which the 6% charge arose.

Self Assessment Discretionary Trust Tax returns (Form IT4 for the 6% initial charge and Form IT32 for the 1% annual charge) must be completed and sent, together with the tax due, to the Revenue Commissioners within these time limits:

Initial once-off charge	Within 4 months of the valuation date.
Annual 1% charge	Within 4 months of 31 December of each year.

#### **Exemptions:**

Exemptions to Discretionary Trust Tax applies under Section 17 Capital Acquisitions Tax Consolidation Act 2003 where the Revenue Commissioners are satisfied that the trust has been created exclusively for one (or more) of the following purposes:

- (i) public or charitable purposes in the State or Northern Ireland;
  - (ii) the purpose of a superannuation or unit trust scheme;
  - (iii) the purpose of providing for the upkeep of a heritage house or garden;
  - (iv) the benefit of one or more named individuals who are because of age or improvidence or physical, mental or legal incapacity incapable of managing his/her or their affairs.
- (c) Is any child, child of a pre-deceased child, or the spouse of the deceased named as an object of a Discretionary Trust?

Place  in appropriate box to indicate "yes" or "no".

If yes, state the date of birth of each e.g. DD/MM/YYYY

#### **Question 11**

**Was the deceased entitled at the date of death to an interest in expectancy in any property?**

Place  in appropriate box to indicate "yes" or "no".

An **interest in expectancy** is a benefit to which the deceased is entitled but which may not come into possession until some future date, (i.e. on the death of another person).

#### **Example**

- Gerry (settlor) died in 2000 and left Peter a life interest in property with remainder to Noel.
- Noel (remainderman) dies in 2010.
- Noel is the deceased person in respect of whom this Inland Revenue Affidavit is being filed.
- Peter (life tenant) survives Noel.
- At the time of his death, Noel is entitled to an interest in expectancy but this does not become an interest in possession until Peter (life tenant) dies.
- On the death of the life tenant, the property will pass to the beneficiaries of Noel's estate.
- An interest in expectancy is not liable to tax until the interest comes into possession of the person(s) getting the benefit.

If the reply to this question is "yes", the following particulars are required to be given in the panel titled "FULL PARTICULARS":

- (i) the name, address, PPS number and, if dead, the date of death of the person who created the interest in expectancy;
- (ii) the name and date of birth of the person, i.e. life tenant, on whose death the expectant interest arises;
- (iii) the names and addresses of the present trustees and of their solicitors;
- (iv) the relationship between the (settlor) and the deceased;
- (v) particulars and estimated values of the property involved.

#### FULL PARTICULARS

*(applicable if the answer to any of questions 7 - 12 above is Yes)*

Question 11. Example of particulars required where the reply to this question is "yes".

Gerry Daly (settlor), Rose Cottage, Arklow, Co. Wicklow, PPS No. 0123456L, who died on 20/04/2000 created a life interest for Peter Daly (life tenant) of the same address with remainder interest to Noel Daly (the deceased).

The deceased is entitled to a remainder interest expectant on the death of Peter Daly, date of birth 23/11/1946.

Trustees: Sean Casey, Casey & Co. Solicitors, Arklow, Co. Wicklow.

Relationship of settlor to deceased: son.

Particulars of property: Dwelling-house at above address.

Value: €350,000.

#### Question 12

**Did any person become entitled on the death of the deceased to an interest in any property by virtue of the deceased's exercise of or failure to exercise a general power of appointment?**

Place  in appropriate box to indicate "yes" or "no".

A **general power of appointment** can be described as a power given by deed or will to a person who may appoint property to whomsoever he/she wishes including himself/herself.

#### Example

- Conor is the deceased person in respect of whom this Inland Revenue Affidavit is being filed.
- Cormac who died in 1998, by his will, gives Conor a life interest in property.
- In addition to the life interest, Cormac gives Conor power (either by deed during his lifetime or by his will) to appoint the property to whomsoever he wishes (including himself) or, in the event that he dies without exercising his power, the property is to pass on his death to Edward.
- Because Conor has a general power of appointment, he is deemed to take an absolute interest in the property and pays tax accordingly.
- If Conor does not appoint the property to Edward but instead appoints it to his brother, Michael, then Michael is deemed to take an inheritance of the full value of the property from Conor as disponent.
- If Conor dies without having exercised his power the property passes on his death to Edward under the terms of the original will.
- Edward is deemed to take the benefit from Conor and not the original testator.

If the reply to this question is "yes", the following information should be provided in the panel titled "FULL PARTICULARS":

- (i) the names, addresses and PPS number and, if dead, the date of death of the settlor;
- (ii) the names and addresses of the trustees, if any, and of their solicitors;
- (iii) the relationship between the (settlor) and the life tenant;
- (iv) particulars and estimated values of the property involved at the date of the settlor's death;
- (v) the name, address and PPS number of the beneficiary at the date of the deceased's death;
- (vi) the relationship between the beneficiary and the deceased;
- (vii) estimated values of the property at the date of the deceased's death.

Benefits taken under the above heading must also be summarised in Part 8.

## FULL PARTICULARS

*(applicable if the answer to any of questions 7 - 12 above is Yes)*

Question 12. Example of particulars required where the reply to this question is "yes"

Cormac Canning (settlor), Kill, Co. Cavan, PPS No. 0000000P, who died on 16/06/1998, by his will, created a life interest for the deceased, Conor Canning, subject to a general power of appointment.

Trustees: James Kane, Kane & Co. Solicitors, Redhills, Co. Cavan.

Relationship of settlor to deceased: nephew.

Particulars of property: residential farm at above address - estimated value at date of settlor's death €500,000.

By his will dated 15/02/2009, the deceased appointed the property to his brother, Michael Canning, Naas, Co. Kildare, PPS No. 0000000N.

Estimated value at date of the deceased's death: €1,500,000

## Part 7 - Schedule of Lands and Buildings

This page replaces the old Form C.A.6.

This schedule must be completed in all cases where the assets of the estate include lands and buildings. Additional copies of the schedule should be used if an estate consists of more than five properties.

### Milk Quota

Place  in the appropriate box if there is a super levy milk quota attached to any of the property below

Where a super levy milk quota attaches to any agricultural land comprised in the estate, the item of property to which the milk quota attaches should be clearly identified i.e. at 1, 2, 3, 4 or 5 in the schedule. The estimate of market value given for such property should include the value of the milk quota super levy. Enter the number of litres.

### Is the estimated value supported by a professional valuation?

Place  in appropriate box to indicate "yes" or "no". If yes, please retain the valuation in the event that it is required for inspection.

### Timber

Place  in the appropriate box if any of the property described below is agricultural property which consists of trees or underwood.

Where agricultural property consists of trees or underwood, such property should be clearly identified i.e. at 1, 2, 3, 4 or 5 in the schedule. The estimate of market value given for such property should include the value of the trees and underwood.

### Is the estimated value supported by a professional valuation?

Place  in appropriate box to indicate "yes" or "no". If yes, please retain the valuation in the event that it is required for inspection.

## SITUATION OF PROPERTY

For each property enter the exact location of the property i.e. County, City, Town, Townland or Street and Number.

Enter the Electoral Division or Ward. This information can be obtained from the Local Authority, i.e. County Council or City Council, for the area in which the property is located.

## AREA

Enter area in hectares (1 hectare = 2.47 acres)

## Estimated market value of property

Enter an estimate of the market value of the property at the date of death.

## TENURE

If the estate comprises a leasehold in land or buildings, enter the date and the length of the term of such lease.

If a leasehold is held, the title deeds of the relevant property will indicate this.

**Example:** Lease dated 27/05/1950 - 999 years

If registered, enter the folio number.

Information regarding the tenure of property, e.g. whether registered or not registered, folio numbers etc., can be obtained from the relevant Land Registry Offices set out in Appendix 3.

## Part 8 - Summary of Benefits. Include all current benefits exceeding €20,000 other than benefits taken by a spouse.

This section captures particulars of all current benefits greater than €20,000.

Benefits taken by a spouse should not be included here.

### Enter PPS number of deceased

(Personal Public Service number.)

Enter 7 numeric characters with an alpha check character

### BENEFICIARY DETAILS

For each beneficiary enter PPS number, forename, surname and address.

A PPS number containing 'W' as a second check character (i.e. 1234567KW), is not acceptable.

Where this is the case, an application for a new number should be made to the Department of Social Protection.

Place  in the appropriate box to indicate whether or not, the beneficiary is resident or ordinarily resident in Ireland.

### Current Benefits

#### Group Threshold

Place  in the appropriate box to indicate the appropriate group threshold (See Introduction, Inheritance Tax).

State the approximate value of benefits passing, including benefits passing by survivorship.

#### Aggregable Prior Benefits received since 05/12/1991

The benefits to be included in this section are any prior gifts or inheritances taken by the beneficiary from any source within the same group threshold, on or after 5th December 1991.

Enter amount received under each threshold.

Where no prior benefit has been received enter **zero**.

Example

Current benefit taken from brother (group B) on 1 September 2009.

Prior benefits:

- a. from sister (Group B) on 1 May 2003
- b. from cousin (Group C) on 1 June 2000
- c. from uncle (Group B) on 1 July 1988

Only the benefit at (a) is added to the current benefit.

### Self - Assessment Return

A self-assessment return must be completed and forwarded to the Revenue Commissioners in respect of each beneficiary where the value of his/her benefit (either on its own or when added to other gifts or inheritances taken from any source within the same 'group threshold', on or after 5 December 1991), exceeds 80% of his/her tax-free or threshold amount.

A self-assessment return Form IT 38 is required by the 31st October as follows:

Where valuation date arises between 1 January and 31 August – By 31 October of that year.

Where valuation date arises between 1 September and 31 December – By 31 October of the following year.

Any tax due must also be paid by the filing date.

Where IT38 is filed through ROS there is an extended filing date

In the case of inheritance, the valuation date is normally the **earliest** of the following dates:

- The date the subject matter of the inheritance can be retained for the benefit of the beneficiary
- The date it is actually retained for the benefit of the beneficiary
- The date it is transferred or paid over to the beneficiary

The valuation date will normally be the date of death in the following circumstances:

- Gift made in contemplation of death (donatio mortis causa)

- Where a power of revocation has not been exercised
- Where property passes by survivorship or under trust

If the tax is not paid on time, interest at a daily rate will be charged. The beneficiary is responsible for making the return and paying the tax due.

## Appendix 1

### DISTRICT PROBATE REGISTRIES

In addition to the Probate Office in Dublin there are fourteen District Probate Registries in Ireland, located in local Circuit Court Offices. Where a deceased person had his or her fixed place of abode in Dublin, Meath, Kildare or Wicklow or where the deceased lived outside Ireland, application for a Grant must be made to the Probate Office in Dublin.

Where the deceased lived in Ireland and had a fixed place of abode in any county other than Dublin, Meath, Kildare or Wicklow the applications may be made either to the Probate Office in Dublin or to the local Probate Registry.

#### Place and Districts of District Probate Registries

OFFICE	ADDRESS	TELEPHONE	COUNTIES SERVED
Castlebar	The Courthouse Breaffy Road Castlebar Co. Mayo	+353 (0) 94 9043802	MAYO
Cavan	The Courthouse Farnham Street Cavan Co. Cavan	+353 (0) 49 4331530	CAVAN LONGFORD
Clonmel	The Courthouse Nelson Street Clonmel Co. Tipperary	+353 (0) 52 6129183	TIPPERARY
Cork	The Courthouse Washington Street Cork	+353 (0) 21 4271223	CORK
Dublin	The Probate Office, Courts Service, Phoenix House, Smithfield, Dublin 7	+353 (0) 1 8886174	ALL
Dundalk	The Courthouse Market Square Dundalk Co. Louth	+353 (0) 42 9392300	LOUTH MONAGHAN
Galway	The Courthouse Courthouse Courthouse Square Galway	+353 (0) 91 511500/501	GALWAY ROSCOMMON
Kilkenny	The Courthouse Parnell House Parnell Street Kilkenny	+353 (0) 56 7722073	KILKENNY CARLOW LAOIS
Letterkenny	The Courthouse Letterkenny Co. Donegal	+353 (0) 74 9128711	DONEGAL
Limerick	The Courthouse Merchant's Quay Limerick	+353 (0) 61 414655	LIMERICK CLARE
Mullingar	The Courthouse Mount Street Mullingar Co Westmeath	+353 (0) 44 9348315	WESTMEATH OFFALY
Sligo	The Courthouse Sligo	+353 (0) 71 9142228	SLIGO LEITRIM
Tralee	Courthouse Ashe Street Tralee Co. Kerry	+353 (0) 66 7121998	KERRY
Waterford	The Courthouse Catherine Street Waterford	+353 (0) 51 874144	WATERFORD
Wexford	The Courthouse County Hall Wexford	+353 (0) 53 9122329	WEXFORD

## Appendix 2

### TAXATION OF FOREIGN PROPERTY

	Residence or ordinary residence of Disponer	Residence or ordinary residence of beneficiary	Domicile of disponer	Domicile of beneficiary	Cat liability
1	Irish	Irish	Irish	Irish	Liable
2	Irish	Irish	*Foreign	Irish	Liable
3	Irish	Irish	Irish	Foreign	Liable
4	Foreign	Irish	*Foreign	Irish	Liable
5	Irish	Foreign	Irish	Irish	Liable
6	Foreign	Foreign	Irish	Irish	Not Liable
7	Irish	Irish	Foreign	Foreign	Not Liable
8	Irish	Foreign	Irish	Foreign	Liable
9	Foreign	Foreign	Foreign	Irish	Not Liable
10	Foreign	Foreign	Foreign	Foreign	Not Liable
11	Irish	Foreign	Foreign	Foreign	Not Liable
12	Irish	Foreign	Foreign	Irish	Not Liable
13	Foreign	Irish	Irish	Irish	Liable
14	Foreign	Foreign	Irish	Foreign	Not Liable
15	Foreign	Irish	Foreign	Foreign	Not Liable
16	Foreign	Irish	Irish	Foreign	Not Liable

★ Where a disponer dies domiciled in any of the states of the U.S.A., no liability to inheritance tax arises in respect of foreign situated property.

## Appendix 3

### LAND REGISTRY - Addresses & Telephone numbers

**Properties in counties Cavan, Donegal, Longford, Leitrim, Louth, Meath, Monaghan, Westmeath, Kildare, Wicklow, Galway, Dublin, Mayo, Roscommon and Sligo and Ground Rents for all counties:**

Property Registration Authority, Chancery Street, Dublin 7

DX 228

Telephone (01) 670 75000

LoCall 1890 333001

**Properties in counties Carlow, Cork, Kerry, Kilkenny, Laois, Limerick, Offaly, Tipperary, Waterford, Wexford and Clare:**

Government Buildings, Cork Road, Waterford

DX 44090

Telephone (051) 303 000

LoCall 1890 333 002