

Introduction

Tax relief is available in respect of the donation of important national heritage items to the Irish national collections. The relief consists of a tax credit equal to the value of the heritage item(s) donated which can be credited against particular tax liabilities incurred by the donor.

How to qualify for the Relief

In order to qualify for the relief, donors of heritage items should take the following steps:

- ❑ Contact the Department of Arts, Sport and Tourism in order to obtain the application form and, where necessary, additional information.
- ❑ Forward the completed application form, together with details of the heritage item(s) being donated, to the Department of Arts, Sport and Tourism for onward transmission to the Selection Committee.
- ❑ The Selection Committee will then decide if the heritage item(s) meets the criteria for donation under the legislation and formally request the Revenue Commissioners to value the item.
- ❑ If the heritage item meets the criteria for donation and if it meets the valuation requirements, the donor will be advised that he/she can make the donation. When the donation actually takes place, a Designated Officer of the Approved Body to which the donation is being made (this is the representative of the Approved Body on the Selection Committee) will give a certificate to the taxpayer certifying the receipt of the donation and the change of ownership of the heritage item(s) to the Approved Body.
- ❑ A duplicate of this certificate will be given to the Revenue Commissioners who will arrange for the crediting against the appropriate tax liabilities on request from the donor.

Structure of the Relief

Section 1003, Taxes Consolidation Act, 1997 provides that persons who donate heritage items can credit the value of those items against their liabilities for certain taxes.

The taxes covered by the relief are Income Tax, Corporation Tax, Capital Gains Tax, Gift Tax and Inheritance Tax.

The tax credit must first be set against arrears (if any) of those taxes. Only when any such arrears are cleared can the tax credit be set against current and future tax liabilities.

The tax credit granted in this instance is non-refundable and will not lead to any repayment of tax. No interest is payable on any overpayment which arises as a result of the tax credit.

In order to obtain the tax credit, the heritage item(s) must be donated for no consideration – other than the tax credit itself.

The donor is not entitled to any other tax relief in respect of the donation. This means in particular that the relief from capital gains tax for the disposal of assets to the State is not available. Accordingly, the donation of the heritage item may lead to a capital gains tax liability for the donor. However, in most instances, the tax credit from the donation will cover this liability, so that no capital gains tax will be payable as a result of donations under Section 1003.

In addition, where the property is acquired at auction by the person making the gift, the market value of the property shall, for the purposes of this section, be deemed to include the auctioneer's fees in connection with the auction together with –

- 1) any amount chargeable under the Value Added Tax Act, 1972, by the auctioneer to the purchaser of the property in respect of those fees and in respect of which the purchaser is not entitled to any deduction or refund under that Act or any other enactment relating to the value added tax,
- 2) or in the case of an auction in a country other than the State, the amount chargeable to the purchaser of the property in respect of a tax chargeable under the law of that country which corresponds to value-added tax in the State and in relation to which the purchaser is not entitled to any deduction or refund.

Heritage Items

For the purposes of the relief, heritage item means any kind of cultural item including –

- any archaeological item, archive, book, estate record, manuscript and painting, and
- any collection of cultural items and any collection of same in their setting which are considered appropriate for donation to the national collections.

The national collections are described as Approved Bodies under the legislation.

The tests applied in order to determine whether a heritage item or collection of heritage items is appropriate for donation to the Approved Bodies are as follows:

- 1) the heritage item(s) must be an outstanding example of the type of item involved, pre-eminent in its class, whose export from the State would constitute a diminution of Ireland's accumulated cultural heritage or whose import into the State would constitute a significant enhancement of the accumulated cultural heritage of Ireland and must be suitable for acquisition by the Approved Bodies

- 2) in considering an application from a potential donor, the selection committee will also seek the opinion in writing of
 - (i) the approved body concerned and
 - (ii) the Heritage Council, the Arts Council or such other person or body as it deems appropriate

- 3) the open market value of the item/collection of items must be at least €150,000 and in the case of a collection, at least one item in the collection must have a minimum value of €50,000

Decisions regarding the first test are a matter for a Selection Committee provided for under the legislation. The Revenue Commissioners have the responsibility for valuing the open market value of the heritage item(s) donated.

Approved Bodies

Following is a current list of Approved Bodies under the legislation:

- the National Archives
- the National Gallery of Ireland
- the National Museum of Ireland
- the National Library of Ireland
- the Irish Museum of Modern Art
- the Crawford Art Gallery Cork Limited

The Minister for Arts, Sport and Tourism, with the consent of the Minister for Finance, has the authority to approve further bodies for the purpose of the relief. Such additional bodies must be funded wholly or partly by the State or a public or local authority.

- The Selection Committee is composed of the following persons:
 - An officer nominated by the Minister for Arts, Sport and Tourism who shall act as Chairperson of the Committee
 - the Chief Executive of the Heritage Council
 - the Director, National Archives
 - the Director, Arts Council
 - the Director, National Gallery of Ireland
 - the Director, National Library of Ireland
 - the Director, National Museum of Ireland
 - the Director and Chief Executive, Irish Museum of Modern Art.
 - the Director of the Crawford Art Gallery Cork Limited

The Selection Committee's secretariat is provided by the Department of Arts, Sport and Tourism, to which correspondence, etc. should be directed – see below.

Application Forms and Information in relation to Section 1003 can be obtained from:

The Selection Committee,
C/O Department of Arts, Sport and Tourism,
Cultural Institutions Division,
Fossa,
Killarney,
Co Kerry

Tel: 064-27343 Fax: 064-27350

The Revenue Commissioners are required to compile and publish in their Annual Report the names, descriptions and values of the heritage items in respect of which relief is given in any calendar year.

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