

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

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Glossary

Administrator:	Person responsible for finalising a deceased's affairs.
Affirmation:	The giving of evidence without taking the oath.
Beneficiary:	Person entitled to benefit, i.e. gift or inheritance.
Bequest:	Personal property passing under a will.
C.A. 24:	Inland Revenue Affidavit.
Codicil:	An instrument executed by a testator for adding to, altering, explaining or confirming a will previously made by him/her.
Death benefit:	Monies payable on the death of a deceased, e.g. superannuation, insurance policy, lump sum.
Deponent:	Person who testifies under oath.
Devise:	Real property, e.g. land, buildings passing under a will.
Disclaimer:	Refusal/renunciation of a benefit/right/entitlement.
Disclaimed estate:	Benefit/right/entitlement which has been refused/renounced.
Disposer:	Person who provided the gift or inheritance.
Disposition:	Mode by which property passes, e.g. will, intestacy, survivorship, nomination, deed.
District Probate Registries:	Branch offices in the provinces of the Probate Office.
Domicile:	The country 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.
Estate:	All assets, e.g. house, land, bank accounts, stocks & shares, livestock, jewellery, car etc. of a deceased person.
Executor:	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.
Free use:	Having the use and enjoyment of property either for no consideration or for less than full consideration.
Grant of Probate:	Grant of representation where there is a will.
Grant of Representation:	In order to get legal confirmation of his or her appointment, the personal representative must apply to the Probate Office of the High Court for a document known as 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.
Improvidence:	Failure to look ahead. Carelessness in providing for the future.
Inland Revenue Affidavit:	An account of the deceased's person's assets, liabilities, beneficiaries etc.
Intestacy:	Dying without leaving a will.
Issue:	Includes children, children of the half-blood, non-marital children, unborn children.
Joint tenancy:	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 to the surviving joint tenant(s).
Keyman policy:	Policy taken out by a company or organisation on the life of a key person in the company or organisation
Legacy:	Personal property passing under a will.
Letters of Administration:	A grant of representation where no will exists.
Life tenant:	Person given property for the duration of his/her life.
Limited interest:	An interest that is less than an absolute interest, i.e. for life or for a certain period.

Nationality:	Nationality represents a person's political status by virtue of which he/she owes allegiance to some particular country.
Nomination:	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 to be distributed according to the will/intestacy.
Ordinary residence:	<p>The term "ordinary residence" is used in relation to a person's normal place of residence.</p> <p>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.</p> <p>An individual who is ordinarily resident does not cease to be ordinarily resident until he/she has three consecutive years in which he was not resident in the State.</p>
Personal representative:	The person responsible for finalising the deceased's affairs.
Per stirpes:	Distribution of the property of an intestate is per stirpes if it is divided amongst those entitled to it according to the number of stocks of descent; that is, if it is divided equally amongst the surviving children of an intestate individually, and the descendants of deceased children collectively, so that the descendants of a deceased child take that child's share between them.
Power of Attorney:	A formal instrument by which one person empowers another to represent him/her to act on his/her behalf.
Power of revocation:	Where a gift is given in the lifetime of a disponent in which he/she retains a right to revoke the gift, i.e. take it back at any time.
Probate Office:	An office within the Court Service under the jurisdiction of the High Court whose function it is to issue Grants of Representation.
Quoted shares:	Shares quoted on the stock market.
Relatives of the half-blood:	Persons are 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.
Relatives of the whole blood:	One person is said to be of the whole blood to another when they are both descended from the same pair of ancestors, e.g. two brothers who have the same father and mother.
Remainderman:	Person who takes an absolute interest in property on the cessor, i.e. coming to an end, of a limited interest.
Residuary inheritance:	The portion of a deceased's estate that remains after all debts and legacies have been satisfied.
Residuary legatee:	The person who takes the residue of the estate after all debts and legacies have been satisfied.
Survivorship:	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.
Strangers in blood:	Persons who have no tie between them by blood or valid marriage.
Tenancy in Common:	Where two or more persons have undivided shares in property. On the death of a tenant in common his/her share goes to the successor in title and not to the surviving co-tenant.
Testator:	Person who makes a will.
Trustee:	Person who holds property on trust for another.
Unquoted shares:	Private company shares which are not quoted on the stock market.
Will:	A declaration by which the person (testator) making it provides for the distribution of his/her property after his/her death.

General

About this Guide

The Guide follows the same sequence and numbering system as the Inland Revenue Affidavit and takes you step-by step through each part of the form. It also explains some key concepts along the way. It is not a legal interpretation of the Law.

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

An Inland Revenue Affidavit, Form C.A.24, must be completed by the personal representative and forwarded to the Revenue Commissioners for certification as a preliminary step towards obtaining a Grant of Representation from the Probate Office of the High Court in respect of the estate of a deceased person.

As a general rule, the Inland Revenue Affidavit is submitted by a solicitor acting on behalf of the personal representative. The personal representative may, however, make a personal application for the Grant of Representation by contacting The Probate Office, Phoenix House, 15-24 Phoenix Street North, Smithfield, Dublin 7 telephone 01-8725555 or the District Probate Registry for the district where the deceased, at the time of his/her death, had a fixed place of abode.

A list of the District Probate Registries is included in Appendix I.

Some general terms and procedures

1. The Inland Revenue Affidavit

The Inland Revenue Affidavit is, among other things, an account of the deceased person's assets

It also looks for:

- ◆ a full account of the deceased person's liabilities at the date of death;
- ◆ information on assets passing outside the will or intestacy and
- ◆ details of the beneficiaries and the value of the benefits taken.

2. The Personal Representative

The personal representative is the person who is responsible for finalising the deceased's affairs. He or she must, within a reasonable time, collect the assets passing under the will or intestacy (where no will exists), pay any debts due by the deceased and distribute the surplus assets to the beneficiaries entitled to them.

A testator/testatrix is a man or woman who makes a will.

If there is a will, it is likely that the personal representative has been appointed by being named in the will as its executor and has taken on the responsibility for that reason. In the case of an intestacy, the personal representative will probably have taken on the responsibility simply because he or she is the deceased's spouse or one of the next-of-kin. A personal representative who has not been appointed under a will is known as an administrator.

The Probate Office is the only legal authority allowed to decide who is entitled to administer the estate.

3. Grant of Representation

In order to get legal confirmation of his or her appointment, the personal representative must apply to the Probate Office of the High Court for a document known as 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.

The Grant of Representation is also known as a Grant of Probate (where there is a will) or Letters of Administration (where there is no will).

A Grant of Administration with will annexed of the deceased's estate is issued where the application is made by a person other than the executor named in the deceased's will. This may happen where the person named as executor in the will does not want to act in the administration of the estate or is deceased, or where the deceased made a will but failed to appoint executors. (See tick boxes in Part 2 (Sworn Declaration) of the Inland Revenue Affidavit).

4. Estate

The estate of a deceased person consists of whatever assets (e.g. bank accounts, stocks and shares, house, land, livestock, jewellery, car etc.) can be passed on to beneficiaries following the deceased's death.

5. Disponer

The disponer is the person who provides a gift or an inheritance. Normally the disponer is the donor, in the case of a gift; the deceased, in the case of an inheritance; or the settlor, in the case of an appointment from a trust.

6. Disposition

A “**disposition**” is defined in Section 2 of the Act.

Broadly, it is the mode by which property passes, e.g. under a will, on intestacy, by survivorship (in the case of a joint tenancy), or by deed.

There are many other less common types of disposition which include:

- (a) nomination;
- (b) any trust, covenant, agreement or arrangement, whether made by a single operation or by associated operations;
- (c) the payment of money;
- (d) the allotment of shares in a company;
- (e) the grant or creation of any benefit;

7. Beneficiary

A beneficiary is a person who inherits either the whole or part of the deceased's estate. This may happen under the will or intestacy, or outside of the will or intestacy.

As a general rule, a benefit lapses if a beneficiary named in a will dies before the testator. However, Section 98 of the Succession Act, 1965 provides that where a child or other issue (i.e. grandchild) of the testator dies before the testator but leaves issue living at the time of the testator's death, the benefit will not lapse but will take effect as if the death of that person (child or grandchild) had happened immediately after the death of the testator. That benefit will be distributed in accordance with the will or intestacy of the deceased child, grandchild etc. but is deemed for the purposes of inheritance tax to derive from the original testator. (Section 42 of the Act refers).

Example 1

James died and under his will bequeathed his estate to his son Mark. Mark predeceased James leaving a child, Anne, surviving. In his will Mark left all his estate to Anne.

Section 98 of the Succession Act provides that:

- Mark is deemed to have died immediately after James;
- The benefit to Mark does not lapse and Anne inherits James' estate in accordance with Mark's will;
- Section 42 of the Act provides that for the purposes of inheritance tax, Anne is deemed to take the benefit from James;

Note: In the above example, the benefit to Mark would have lapsed if Mark had not left a child surviving him.

Example 2

- Mary made a will in 1999 leaving her estate to be divided equally between her three children, John, Anne and Paul.
- John died in 2001 survived by his spouse, Joan and two children, Dorothy and Frank.
- In his will, John left his estate to be divided as to two-thirds share to his spouse and the remaining one-third in two equal parts to his children.
- Mary died in 2002 without having altered her will.
- John's one-third share of his mother's estate falls to be distributed as to a two-thirds share to Joan and the remaining one-third to Dorothy and Frank in equal shares.
- For the purposes of inheritance tax, Joan, Dorothy and Frank are deemed to take the benefit from Mary.

8. Disclaimers

A person may disclaim a benefit under a will or an intestacy (Section 12 of the Act).

A disclaimer is the renunciation (refusal) of a right before it comes into possession, i.e. the benefit must be disclaimed before the beneficiary has taken any benefit from it. A disclaimer can be made formally by deed or by writing. Broadly, the following rules apply to disclaimers.

- ◆ The person disclaiming is released from any liability to tax in respect of the disclaimed benefit.

- ◆ The person benefiting from the disclaimer is deemed to have received the benefit from the original disponer and not from the person disclaiming.
- ◆ A person can disclaim for consideration. Any consideration is a benefit moving from the original disponer to the person disclaiming.
- ◆ The person disclaiming cannot determine who will take the benefit as a result of the disclaimer.
- ◆ If two benefits are given under a will the beneficiary is entitled to disclaim one and accept the other *unless* the two are conditional on each other in which case he/she must accept both or none.
- ◆ If a single benefit includes two or more different assets the beneficiary must accept all or disclaim all. He/she cannot partially disclaim.
- ◆ A disclaimed legacy or devise falls into the residue of the estate.
- ◆ If a residuary legatee disclaims, the residue is distributed as if there was an intestacy.
- ◆ A residuary inheritance cannot be partially disclaimed.
- ◆ If a life tenant or other limited interest is disclaimed the remainder interest falls in immediately, i.e. the remainderman takes an absolute interest in the property.

Example of disclaimer

John dies and in his will bequeaths his farm valued at €200,000 to his son Michael and the residue of his estate valued at €50,000 to his daughter Sheila.

Michael disclaims the bequest of the farm so that it falls into the residue and passes to Sheila. The effect is:

- (i) The bequest of the farm to Michael is not a taxable inheritance from his father;
- (ii) The benefit of the farm is not a gift from Michael to Sheila;
- (iii) Sheila's inheritance from her father is increased by the value of the farm to a taxable value of €250,000.

Example of disclaimer for consideration

If, in the above example, Sheila had paid a consideration of €50,000 to Michael for the disclaimer the effect would be:

- (i) Michael takes a taxable benefit of €50,000 from his father;
- (ii) Sheila takes from her father a total taxable inheritance of €200,000 (farm €200,000 less €50,000 consideration paid + €50,000 residue).

Example of disclaimer by residuary legatee

- Richard, a widower, dies and in his will leaves a house valued at €300,000 to his daughter Anne, a legacy of €20,000 to his daughter Mary and the residue of his estate valued at €100,000 to his son Luke (he is known as the residuary legatee).
- Luke disclaims any benefit under the will or intestacy.
- Richard has given no direction in the will as to how the residue should devolve in the event of a disclaimer by Luke.
- The residue is divided in equal shares between Anne and Mary under the rules of intestacy.
- Anne takes a taxable inheritance of €350,000.
- Mary takes a taxable inheritance of €70,000.

Disclaimer on Intestacy

The provisions governing the distribution of a disclaimed estate on intestacy are contained in Section 72A of the Succession Act, 1965 (as inserted by Section 6 of the Family Law (Miscellaneous Provisions) Act, 1997). The Section says that where the estate, or a part of it, of a person who dies intestate is disclaimed after 5th May, 1997 (otherwise than under Section 73 of the Succession Act, 1965, See "State as ultimate intestate successor" at Paragraph 14 below), the estate, or part of the estate, shall be distributed in accordance with Part VI of the Succession Act, 1965 –

- (a) as if the person disclaiming had died immediately before the death of the intestate, and
- (b) if the person disclaiming is not the spouse or a direct lineal ancestor, i.e. a parent or grandparent, of the intestate, as if that person had died without leaving issue.

This means that where there are any possible successors of the intestate, other than the person who disclaims his/her interest, they will take precedence over the State for the purposes of succession on intestacy.

Example

- John dies intestate
- John is survived by three brothers, A, B and C
- A, B and C are each entitled to a one-third share of John's estate
- B disclaims

- B has issue
- B is presumed to have died without issue immediately before John
- A and C each take a half share of John's estate.

Note: If in the above example, A, B and C had disclaimed, the estate would not pass to their children, if any, but to uncles and aunts of the deceased or, if none, to first cousins.

9. Inheritance Tax

Inheritance tax is a tax which can arise where a beneficiary receives an inheritance as a result of someone dying. The tax implications are linked to the residence or ordinary residence of either the donor or beneficiary. This is dealt with in more detail in Part I – General Information, Question 9. 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.

In the case of other beneficiaries, liability to inheritance tax depends on whether 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 donor 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 1 December 1999 are liable to tax as follows:

Group threshold amountNil

Balance.....20%

The beneficiary is responsible for paying the tax.

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 donor
- ◆ Stranger in blood

The group thresholds applicable are -

	2003	2002	2001
Group A	€ 441,198	€ 422,148	€ 402,253
Group B	€ 44,120	€ 42,215	€ 40,225
Group C	€ 22,060	€ 21,108	€ 20,113

The group thresholds are indexed on the 1st January each year by reference to the Consumer Price Index. The revised indexed group thresholds for the following years can be obtained by contacting our CAT Taxpayer Information Service at

- Local phone 1890 201104
- Fax No. 01 6790049
- E-Mail captax@revenue.ie
- Website www.revenue.ie
- Address Taxpayer Information Service (CAT),
Capital Taxes Division,
Dublin Castle,
Dublin 2

Group A

The group A threshold applies where the beneficiary is –

- ◆ a child, or a minor child of a deceased child of the disposer (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 had been cared for and maintained at the disposer’s own expense from a young age up to the age of 18 for period(s) amounting to at least 5 years and had also resided with the disposer. 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 grand parent;
†The Group B threshold applies where a parent takes a gift or a 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 disposer.

Note: In certain circumstances, a grandchild can qualify for the Group A threshold (rather than 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 disposer is the grandparent of the beneficiary.

Group C

The Group C threshold applies to “strangers” i.e. where the relationship between disposer 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 disposer and was of nearer relationship to the disposer, e.g. a daughter-in-law of the disposer can qualify for the Group A (rather than the Group C) threshold if her husband pre-deceased the disposer.

Example

On the death of Mary Smyth in September 2002 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 €422,148 (Group A) and not €21,108 (Group C).

10. How does the estate pass to the beneficiaries?

The assets which make up the deceased’s estate pass on death in two main ways.

- Assets left by will pass to the beneficiaries under the terms of the will.
- Assets which pass outside of the will or intestacy.

11. Examples of assets which pass under the will or intestacy

- ◆ Assets owned in the deceased’s sole name.
- ◆ Assets owned by the deceased but placed in the name of another person for convenience or some similar reason.
- ◆ Assets placed by the deceased in the joint names of the deceased and another person without the intention of benefiting that other person.

12. Examples of assets which pass outside the will or intestacy

- ◆ Assets passing in which the deceased had an interest for his/her life only. (See Part 5, Question 1 of the Inland Revenue Affidavit).
- ◆ Assets passing by nomination, e.g. the deceased may have instructed An Post to pay Savings Certificates on his/her death to a named beneficiary called the nominee. (See Part 5, Question 5 of the Inland Revenue Affidavit).
- ◆ Death benefits passing under a life insurance policy or pension scheme to named beneficiaries. (See Part 5, Question 9 of the Inland Revenue Affidavit).
- ◆ Assets placed by the deceased in the joint names of the deceased and another person with the intention of benefiting that other person on the deceased’s death. (See Part 5, Question 8 of the Inland Revenue Affidavit).

13. Succession Act, 1965

In cases of intestacy, assets that would otherwise have passed by will pass instead under special rules laid down by law. The rules governing the distribution of estates on intestacy are contained in Part VI of The Succession Act, 1965.

Broadly:

- (i) If someone dies intestate leaving a spouse and no issue, the spouse takes the whole estate;
- (ii) If someone dies intestate leaving a spouse and issue-
 - (a) the spouse takes two-thirds of the estate, and
 - (b) the remainder is distributed among the issue in accordance with (iv) below;
- (iii) If an intestate dies leaving issue and no spouse, the estate is distributed among the issue in accordance with (iv) below
- (iv) If all the issue are in equal degree of relationship to the deceased the distribution shall be in equal shares among them; if they are not, it shall be *per stirpes*, i.e. by branch or stock (See Glossary for a definition of *per stirpes*).

Example

- Alan, a widower, dies intestate.
- He had three children, John, James and Mary.
- John has predeceased Alan leaving two children.
- James and Mary take a one-third share each of Alan's estate.
- John's two children take their father's one-third share between them, i.e. a one-sixth share each.

- (v) If someone dies intestate leaving no spouse or issue, the whole of the estate passes to the parents equally, or, if only one parent survives, to the sole parent.
- (vi) If someone dies intestate leaving neither spouse nor issue nor parent, the estate is distributed between brothers and sisters in equal shares, and, if any brother or sister does not survive the intestate, the surviving children of the deceased brother or sister shall, where any other brother or sister of the deceased survives, take in equal shares the share that their parent would have taken if he or she had survived the intestate.
- (vii) If an intestate dies leaving neither spouse nor issue nor parent nor brother nor sister, the estate is distributed in equal shares among the children of his brothers and sisters.
- (viii) If an intestate dies leaving none of the immediate relatives mentioned above, the estate is distributed in equal shares among his/her next-of-kin.

The rules for the ascertainment of next-of-kin are contained in Section 71 of the Succession Act, 1965. Subsection (1) of that Section defines the next-of-kin as "the person or persons who, at the date of the death of the intestate, stands nearest in blood relationship to him".

Relatives of the half-blood are treated as, and succeed equally with, relatives of the whole blood in the same degree.

Persons are 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.

One person is said to be of the whole blood to another when they are both descended from the same pair of ancestors, e.g. two brothers who have the same father and mother.

14. The State as ultimate intestate successor

Section 73 of the Succession Act, 1965 says:

- (1) In default of any person taking the estate of an intestate, whether under this part or otherwise, the State shall take the estate as ultimate intestate successor.
- (2) The Minister for Finance may, if he thinks proper to do so, waive, in whole or in part and in favour of such person and upon such terms (whether including or not including the payment of money) as he thinks proper having regard to all the circumstances of the case, the right of the State under this Section.

This means that the person in whose favour the State's rights are waived is regarded for Inheritance Tax purposes as having taken an inheritance directly from the intestate disponent and not as having taken a gift from the State.

Example:

- Noel, a bachelor, dies intestate.
- He leaves no next-of-kin with a claim under the intestacy rules.
- The State takes his estate as ultimate intestate successor.
- Tony (no relation to Noel) claims the estate.
- The Minister for Finance sanctions a waiver in favour of Tony.
- For the purposes of inheritance tax, Tony is deemed to take the inheritance directly from Noel and not as a gift from the State.

15. Trustee

Instead of providing for property to be given directly to a beneficiary, the deceased's will may provide that, for a specified period, the property is to be held on trust on behalf of the beneficiary by trustees named in the will. Such trusts may arise because the beneficiary concerned is very young, or because the deceased wishes the property to be held for the benefit of one person for life and, on the death of that person, to be transferred to another beneficiary.

The trustees will take over the management of the trust property after the estate has been administered by the personal representative. The trust will then continue until the time specified in the will for the ultimate handing over of the property.

How to Complete the Inland Revenue Affidavit

Part 1 - General Information

PART 1 GENERAL INFORMATION	
1. Name of deceased _____	2. PPS No. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
3. Address _____	
4. Date of death _____	5. Occupation _____
6. Place of death _____	
7. Domicile at death _____	8. Domicile of origin _____
9. Was the disposer resident or ordinarily resident in the State at the date of death? (✓) <input type="checkbox"/> Yes <input type="checkbox"/> No	
10. Marital status (✓) <input type="checkbox"/> Married <input type="checkbox"/> Widowed	11. Relatives surviving (✓) <input type="checkbox"/> Child(ren) (No. of _____) <input type="checkbox"/> Parent(s)
<input type="checkbox"/> Single <input type="checkbox"/> Legally separated	<input type="checkbox"/> Grandparent(s) <input type="checkbox"/> Remoter issue
<input type="checkbox"/> Divorced	

1. Name of deceased

Enter the deceased's full name e.g. John F. Callaghan.

2. PPS Number (Personal Public Service 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 delay in processing 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-free allowance certificate or notice of assessment) or from the Department of Social and Family Affairs.

Clients requiring PPS numbers can call into their nearest Department of Social and Family Affairs 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 who is overseas or for beneficiaries resident overseas, solicitors or executors should contact Client Identity Services in the Department of Social and Family Affairs directly by:

Fax at (01) 7043237, or

Telephone (01) 7043281, or

E-mail: 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 7 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. Occupation

Enter the deceased's principal occupation, e.g. Housewife, Civil Servant, Solicitor. If retired, enter the former principal occupation, e.g. "farmer (retired)".

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. 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, at any given time can be domiciled in only one.

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.

8. Domicile of origin

Enter the deceased's domicile at birth.

9. Was the disponent resident or ordinarily resident in the State at the date of death? (✓)

Tick the relevant 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 4 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.

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.

10. Marital status (✓)

Tick the relevant box.

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.

Information which is relevant in deciding liability to inheritance tax in Divorce/Separation and Annulment cases is contained in Appendix 4.

11. Relatives surviving (✓)

Tick the relevant box.

(See relationship types at Introduction, Paragraph 9, Inheritance Tax).

Part 2 - Sworn Declaration

PART 2 SWORN DECLARATION

I/We, the personal representative(s)

1. Name _____	Occupation _____
Address _____	Relationship to deceased _____
2. Name _____	Occupation _____
Address _____	Relationship to deceased _____

make oath and say as follows:-

1. I/We desire to obtain a grant of (✓) ☐ Probate of the deceased's will ☐ Administration intestate of the deceased's estate.
☐ Administration with will annexed of the deceased's estate.

2. I/We have fully and correctly completed this form and given all the particulars requested therein. The information given is true to the best of my/our knowledge and belief, and no property has been omitted because of uncertainty as to its amount, value etc. I/We undertake to furnish an additional affidavit if at any time it shall appear that a material error or omission has been made.

SWORN by _____
 at _____
 on _____ 20 _____ before me, and I know the deponent.
 _____ a Commissioner for Oaths/Practising Solicitor/Court Clerk.
 Signature _____

SWORN by _____
 at _____
 on _____ 20 _____ before me, and I know the deponent.
 _____ a Commissioner for Oaths/Practising Solicitor/Court Clerk.
 Signature _____

I/We, the personal representative(s)

I & 2.

Enter the name, address, occupation and relationship (e.g. spouse, brother, child of a brother or sister) to the deceased of the personal representative(s). If not related, write stranger in blood.

The address of the personal representative (deponent) is significant.

Normally, at the time the Inland Revenue Affidavit is presented to the Revenue Commissioners, the payment of any inheritance tax due is deferred for the time being. However, where the executor/administrator of the estate is resident outside the State and where any beneficiary liable to Inheritance Tax is also resident outside the State, the Revenue Commissioners require a payment on account of the tax before the Inland Revenue Affidavit may be certified for the High Court (Section 108 (3) of the Act).

It occasionally occurs that a payment on account is not possible until such time as all the assets in the estate are collected. In such cases, the executor/administrator would normally nominate a solicitor in the State to deal with the necessary legal requirements (including Revenue matters) on his/her behalf under a Power of Attorney. The Inland Revenue Affidavit must be sworn/affirmed by the person to whom Power of Attorney has been granted. Acceptance of the willingness to act as attorney on behalf of an executor/administrator resident outside the State means that the person acting will be primarily liable to ensure that all taxes in relation to the inheritance are paid (Section 45 of the Act).

A copy of the Power of Attorney must be produced to the Revenue Commissioners on foot of which they will serve notice on the person acting of his/her primary liability for the tax.

A copy of the High Court Administration Bond (required by the Probate Office in intestacy cases) must also be produced.

1. I/We desire to obtain a grant of (✓)

Tick the relevant box to indicate the type of grant being applied for, e.g.

- Probate of deceased's will (if there is a will), or
- Administration intestate of the deceased's estate (where there is no will), or
- Administration with will annexed of the deceased's estate (where application is being made by a person other than the executor(s) named in the will or, where the deceased made a will but failed to appoint an executor).

2. Sworn

by– Insert in block capitals the name of the personal representative(s).

at – Insert the address of the place where the document is being signed.

on – Insert the date of signing.

The declaration must be sworn by the personal representative and witnessed by a Commissioner for Oaths, a Practising Solicitor or a Court Clerk. However, if the person making the declaration has an objection to swearing the document, the Probate Office have indicated that they will accept the making of an affirmation as an alternative to taking the oath.

Name and Address of the person to whom this Affidavit is to be returned

Insert the name and address of the person to whom correspondence should be addressed.

This will normally be the name and address of the solicitor acting for the personal representative or, in the case of a personal application, the name and address of the personal representative.

Insert here the name and address of the person to whom this affidavit is to be returned:		Agent's code: _____ Agent's ref. no: _____ Agent's tel. no: _____
<small>WARNING: IF THE EXECUTORS OR INTENDING ADMINISTRATORS SWEAR TO THIS AFFIDAVIT WITHOUT PERSONALLY VERIFYING THAT THE STATEMENTS IN IT ARE TRUE, THEY MAY MAKE THEMSELVES LIABLE TO PENALTIES.</small>		
<small>Edition 2003</small> <small>Form C.A.24</small>		

Agent's code - Insert the agent's code.

Agent's ref. no. - Insert agent's reference number.

Agent's tel. no. - Insert agent's telephone number.

Part 3 - Property in the State passing under the Will/Intestacy of the Deceased

PART 3 PROPERTY IN THE STATE PASSING UNDER THE WILL/INTESTACY OF THE DECEASED

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

COPY OF THE WILL/CODICIL (IF ANY) MUST BE ATTACHED

Use continuation sheet where necessary

Gross market value
at date of death

1. Real and leasehold property (houses, apartments, lands etc.) - details on Schedule of Lands & Buildings in Part 6	€	_____
2. Household contents (furniture, antiques, jewellery, paintings etc.)	€	_____
3. Cars/boats	€	_____
4. Business assets not included elsewhere in this Part		
(a) Farming assets (livestock, bloodstock, farm implements, machinery etc.)	€	_____
(b) Other business assets (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.) - property disclosed in Part 5 which passes beneficially by survivorship or nomination should not be included in this Part		
Name and branch of institution	Account no./reference no.	
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
6. Proceeds of life insurance policies - policies disclosed in Part 5 which were written on trust with named beneficiaries should not be included in this Part		
Name of institution	Policy no.	
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
7. Debts owing to the deceased		
Name and address of debtor		
_____		€ _____
_____		€ _____
_____		€ _____
8. Stocks, Shares and Securities		
Quoted (if deceased held a portfolio of shares attach statement from relevant agent/broker)		
Description (including unit of quotation, size of holding and quoted price per unit)		
_____		€ _____
_____		€ _____
_____		€ _____
_____		€ _____
Dividends accruing to the estate		€ _____
Unquoted		
Description (including type and class of share/security)		
_____		€ _____
_____		€ _____
_____		€ _____
_____		€ _____
Carried forward	€	_____

PART 3 — CONTINUED

Gross market value
at date of death

Brought forward € _____

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

10. Any other property not already included

Description

	€	
	€	
	€	
	€	
	€	
	€	
	€	

Gross total € _____ (A)

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

Creditor

Description of debt

		€	
		€	
		€	
		€	
		€	
		€	
		€	

* Debts owing 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 situate within the State.

Total debts € _____ (B)

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 3 heading) 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 (See Appendix 5) - and the rights of the spouse and children to be adequately provided for - Part IX of the Succession Act, 1965 (See Appendix 6).

1. Real and leasehold property

Enter the gross market value at the date of death of immoveable 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 6 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.)

– property disclosed in Part 5 which passes beneficially by survivorship or nomination should not be included in this Part.

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 5, Question 5 or Part 5, Question 8, respectively.

6. Proceeds of life insurance policies

– policies disclosed in Part 5 of this Affidavit which were written on trust with named beneficiaries should not be included in this Part.

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 5, Question 9.

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 (if deceased held a portfolio of shares attach statement from relevant agent/broker)

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.

Unquoted - (Private company shares not quoted on the stock market)

Enter type and class of share/security.

Example:

Name of Company	Class of share	No. of shares	Price per share
ABC Ltd.	€1 ordinary	300	€4.52

Enter gross market value at date of death.

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 gross total at (A).

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

Example:

Creditor	Description of debt	
<i>Byrne Undertakers</i>	<i>Funeral Account</i>	€ <u>2073.00</u>
<i>Nenagh General Hospital</i>	<i>Hospital Account</i>	€ <u>400.00</u>
<i>Ryan & Co. Accountants, Richard</i>	<i>Professional Fees</i>	€ <u>3025.00</u>
		€ _____
		€ _____
		€ _____
		€ _____
<small>* Debts owing 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 situate within the State.</small>		
Total debts		€ <u>5498.00</u> (B)

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 debts at (B).

Enter 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 4 - Property outside the State passing under the Will/Intestacy of the Deceased

PART 4 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)

1. Description and local situation of the property		Gross market value at date of death
Description	Location	
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
Gross total		€ _____(C)
2. Foreign debts* owing by the deceased and funeral expenses payable outside the State		
Creditor	Description of debt	
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
Total debts		€ _____(D)
Net foreign estate (C - D)		€ _____

* Debts owing to persons resident outside the State, other than debts contracted to be paid in the State, or charged on property situate within the State which have been deducted in Part 3.

(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 9, 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 total 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 3.

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 of double taxation. This is dealt with in detail in Appendix 9, Pages 71/84 of The Guide to completing the Self-Assessment Return.

Part 5 - Questionnaire

PART 5 QUESTIONNAIRE

NOTE: Questions 1 - 11 in this Part must be answered in all cases by ticking the appropriate box and by giving additional information as required.

Tick (✓) as appropriate in each case

Where the answer to any of questions 1 - 7 is yes, provide below (in the panel which follows question 7) a statement giving full particulars including details of the property and its value and the names and addresses of the beneficiaries and trustees (if any).

	Yes	No
1. Was the deceased at the date of death the owner of a limited interest (e.g. an annuity, right of residence, or an interest for life or otherwise in house, lands, securities etc.)?	<input type="checkbox"/>	<input type="checkbox"/>
2. 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 , or	<input type="checkbox"/>	<input type="checkbox"/>
(b) any other* benefit in possession (other than property disclosed in Part 3 or 4 or in reply to questions 8 or 9 in this Part)?	<input type="checkbox"/>	<input type="checkbox"/>
* e.g. the taking of a remainder interest on the death of a life tenant.		
3. Did the deceased at any time make a disposition:		
(a) subject to a power of revocation ;	<input type="checkbox"/>	<input type="checkbox"/>
(b) by way of surrender (for full consideration or otherwise) of a limited interest ;	<input type="checkbox"/>	<input type="checkbox"/>
(c) allowing (on or after 5 December, 1991) the use of any property free of charge or for other than full consideration?	<input type="checkbox"/>	<input type="checkbox"/>
4. (a) Did the deceased create a discretionary trust :		
(i) during his or her lifetime, or	<input type="checkbox"/>	<input type="checkbox"/>
(ii) under his or her will?	<input type="checkbox"/>	<input type="checkbox"/>
(b) Is any child, child of a pre-deceased child, or the spouse of the deceased named as an object of a discretionary trust?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, state date of birth of each (DD/MM/YYYY) _____		
5. Did any person benefit on the death of the deceased under a nomination at any time made by the deceased?	<input type="checkbox"/>	<input type="checkbox"/>
6. Was the deceased entitled at the date of death to an interest in expectancy in any property?	<input type="checkbox"/>	<input type="checkbox"/>
7. 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 ?	<input type="checkbox"/>	<input type="checkbox"/>

FULL PARTICULARS

(applicable if the answer to any of questions 1 - 7 above is yes)

The purpose of Part 5 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 the deceased at the date of death the owner of a limited interest (e. g. an annuity, right of residence, or an interest for life or otherwise in house, lands, securities etc.)?

Indicate by ticking (✓) "yes" or "no", as appropriate.

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:

- the name, address and PPS number of the person who created the limited interest and, if dead, the date of death;
- the names and addresses of the trustees for the settlor and of the solicitors acting for them;
- the names, addresses and PPS numbers of the beneficiaries now coming into possession of the relevant property;
- the relationship between the beneficiaries and the person who created the life interest (settlor);
- 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 1 - 7 above is yes)

Question 1. 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 €250,000, at Summerhill, Co. Clare - 105 hectares.

Question 2

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?

Indicate by ticking (✓) "yes" or "no", as appropriate.

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 1 - 7 above is yes)

Question 2(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 3 or 4 or in reply to questions 8 or 9 in this Part)?

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

Indicate by ticking (✓) “yes” or “no”, as appropriate.

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 1985, 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 1996.
- 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 1 - 7 above is yes)

Question 2(b). Example of particulars required where the reply to this question is “yes”

Under a settlement dated 01/12/1985, 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 05/01/1996.

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

Relationship to settlor: nephew.

Particulars of property: Farm value €350,000, at Coolcarty, Navan, Co. Meath - 86 hectares.

Question 3

Did the deceased at any time make a disposition:

(a) subject to a power of revocation?

Indicate by ticking (✓) “yes” or “no”, as appropriate.

This means that a gift given prior to death could be revoked (taken back) by the disponer during his/her lifetime. An example of this is where the disponer 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 disponer.

If the disponer (settlor) dies without having revoked (taken back) 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 disponer.

Example

- By deed of transfer dated 1st January 1997, Sean transfers a house to Bill but reserves to himself a power to revoke the transfer.
- Sean dies on 5th June 2000 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.

The method of calculating tax on such a benefit is set out in Appendix 8.4 and 8.5 of the Guide to completing the Gift/Inheritance Tax Self-Assessment Return.

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 1 - 7 above is yes)

Question 3(a). Example of particulars required where the reply to this question is “yes”

By deed dated 01/01/1997, 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 €60,000.

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: €100,000.

Annual letting value: €2,400.

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

Indicate by ticking (✓) “yes” or “no”, as appropriate.

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 1996 and left his dwelling-house to his brother, Tom, for life with remainder to his nephew, Niall.
- In 1997 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.

The method of calculating tax on such a benefit is set out in Appendix 9, Pages 85 to 88 of the Guide to completing the Gift/Inheritance Tax Self-Assessment Return.

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 1 - 7 above is yes)

Question 3(b). Example of particulars required where the reply to this question is “yes”

*In 1996 Tom Smith (the deceased) inherited a life interest from his brother John Smith, 65 Grove Road, Dublin 16, PPS No. 00000001
By deed dated 12/01/1997, 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 €50,000 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?

Indicate by ticking (✓) “yes” or “no”, as appropriate.

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 €200,000 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.

The method of calculating tax on such a benefit is set out in Appendix 8, Page 67 of the Guide to completing the Gift/Inheritance Tax Self-Assessment Return.

FULL PARTICULARS

(applicable if the answer to any of questions 1 - 7 above is yes)

Question 3(c). Example of particulars required where the reply to this question is "yes"

On 1st January 1998, 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 €200,000.

Estimated annual letting value: €15,000.

Consideration paid: €5,000 per annum.

Question 4

(a) Did the deceased create a discretionary trust:

- (i) during his or her lifetime, or
- (ii) under his or her will?

Indicate by ticking (✓) "yes" or "no", as appropriate

A **discretionary trust** can be defined as a trust containing property of any kind which is held by trustees for the benefit of certain classes of beneficiaries. The legal definition as contained in Section 2 of the 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 the trustees or any other person and notwithstanding that there may be a power to accumulate all or any part of the income".

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

Whether the trust was set up during the lifetime of the disponent or in his/her will, discretionary trust tax only applies when the settlor dies and when the youngest "principal object" has attained 21 years of age.

A "principal object" is defined as the disponent's spouse, child or child of a predeceased child.

Discretionary trust tax is chargeable as follows:

- (i) an immediate once-off 6% charge on the value of the assets in the fund on the valuation date (for a definition of the valuation date, see Part 7, Page 39.

Note: This is reduced to 3% if the trustees appoint all the assets in the fund within five years of the 6% chargeable date.

- (ii) an annual 1% charge arising on the 5th April each year on the value of the assets in the fund at that date (to be paid by the 5th July the same year).

Note: This charge does not apply where the 5th April occurs in the twelve months immediately following the date on which the 6% charge arose.

Self Assessment discretionary trust tax returns, (Form I.T.4 for the 6% charge and Form I.T.32 for the 1% annual charge) must be completed and sent, together with the tax due, to the Revenue Commissioners within these time limits:

the immediate once-off 6% charge	Within 4 months of the valuation date.
the annual 1% charge	By 5 th July each year during the lifetime of the trust.

Exemptions

Certain exemptions from discretionary trust tax apply where the Revenue Commissioners are satisfied that the trust has been established exclusively for:

- (i) public or charitable purposes in the State or Northern Ireland;
- (ii) the purposes 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.

(b) Is any child, child of a pre-deceased child, or the spouse of the deceased named as an object of a discretionary trust?

Indicate by ticking (✓) “yes” or “no”, as appropriate.

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

The charge to discretionary trust tax (6% once-off and annual 1% rates) does not arise until the youngest “principal object” attains 21 years of age.

Question 5

Did any person benefit on the death of the deceased under a nomination at any time made by the deceased?

Indicate by ticking (✓) “yes” or “no”, as appropriate.

Nominated property is any property which the deceased placed in the name of somebody for their benefit on his/her death. (See Introduction, Paragraph 12). 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 particulars in the panel titled “FULL PARTICULARS”:

- (i) the name, address and PPS number of the beneficiary;
- (ii) the relationship, if any, between the beneficiary and the deceased;
- (iii) particulars of the nominated property and its value at the date of death.

FULL PARTICULARS

(applicable if the answer to any of questions 1 - 7 above is yes)

Question 5. Example of particulars required where the reply to this question is “yes”

Under a nomination made by the deceased, John Smith, Somerset, Co. Galway, PPS No. 00000000C, takes a benefit of An Post savings certificates

Relationship to deceased: brother

Value: €55,000

Nominated property can give rise to inheritance tax and benefits taken under this heading are required to be summarised in Part 7.

Note: Because nominated property passes outside the will or intestacy and, since the Grant of Representation only applies to property passing by will or intestacy, the financial institution will normally look for a letter of clearance, Form I.T.10, from the Revenue Commissioners consenting to the release of the nominated accounts. The letter of clearance should be requested when the Inland Revenue Affidavit is filed.

Question 6

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

Indicate by ticking (✓) “yes” or “no”, as appropriate.

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 1996 and left Peter a life interest in property with remainder to Noel.
- Noel (remainderman) dies in 2002.
- 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 1 - 7 above is yes)

Question 6. 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 20/04/1996 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: €150,000.

Question 7

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?

Indicate by ticking (✓) “yes” or “no”, as appropriate.

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 1988, 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 7.

FULL PARTICULARS

(applicable if the answer to any of questions 1 - 7 above is yes)

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

Cormac Canning (settlor), Kill, Co. Cavan, PPS No. 0000000P, who died on 16/06/1988, 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 €50,000.

By his will dated 15/02/1999, 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: €150,000.

PART 5 — CONTINUED

Tick (✓) as appropriate

8. 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?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

If yes, provide in relation to each such item the following information:

(a) **full particulars** of the property _____

(b) its **total value** € _____

(c) **name(s)** of the other joint holder(s) _____

(d) **relationship** of holder(s) at (c) to the deceased _____

(e) **date** the property was put into joint names

(f)* **by whom and in what shares** the property was provided _____

(g)* **purpose** of putting the property into joint names _____

(h)* **how and in what shares** the income from the property was dealt with or enjoyed

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

* Where 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.

Question 8

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?

Indicate by ticking (✓) “yes” or “no”, as appropriate.

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	Number of shares	Price per share
Green Property Co. plc.	Ordinary Eur0.63	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 of the holder(s) at (c) 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 incapacitation 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 interests of the parties in the relevant property. Property in joint names will usually be held under a joint tenancy or a tenancy in common.

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 or owners. 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 3 or 4 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, Paragraph 9).

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 8)

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 disponer 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.

The presumption of advancement automatically arises where the surviving joint holder is a spouse, which means that the joint property passes to that spouse by way of advancement and there are no tax implications. Likewise, if the joint account holder is a son or a daughter, the presumption of advancement also arises and the property does not form part of the estate of the deceased. In this case, however, there can be tax implications bearing in mind the relevant group threshold, prior benefits and also any further benefit passing to the son/daughter under the will/intestacy (See Introduction, Paragraph 9).

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 3 or 4 of the Inland Revenue Affidavit, as appropriate.

Benefits taken under this heading must be summarised in Part 7.

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 €31,750 (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 when the Inland Revenue Affidavit is filed.

Question 9.

9. Did any monies, (capital sum, annuity etc.) other than those (if any) included in Part 3 or 4, 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.?

☐ ☐

If yes, state (indicating with an asterisk any ex-gratia amount):

Name of insurance company/scheme	Name of beneficiary	Amount/value
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____
_____	_____	€ _____

Other relevant particulars (e.g. amount and term of annuities): _____

* Indicate who paid the premiums, if not the deceased alone _____

Did any monies, (capital sum, annuity, etc) other than those (if any) included in Part 3 or 4 of this affidavit, 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.

Indicate by ticking (✓) "yes" or "no", as appropriate

Enter the name of insurance company or scheme.

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 3 or 4 of the Inland Revenue Affidavit. However there may be tax implications depending on the amount, group threshold etc. (See Introduction, Paragraph 9).

Question 10.

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

If yes, state the claim no. _____

(b) Has the Department of Social and Family Affairs any claim against the estate of the deceased? ☐ ☐

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

Indicate by ticking (✓) "yes" or "no", as appropriate.

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

(b) Has the Department of Social and Family Affairs any claim against the estate of the deceased?

Indicate by ticking (✓) "yes" or "no", as appropriate.

Under the Social Welfare Consolidation Act, 1993, the personal representative is obliged to inform the Minister for Social and Family Affairs 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 whether 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 11.

11. If the deceased was survived by a spouse, state the position as to election under **Section 115** of the Succession Act, 1965.

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

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

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

PART 6 SCHEDULE OF LANDS AND BUILDINGS

Milk Quota

Is there a super levy milk quota attached to any of the property described below? (✓) ☐ Yes ☐ No

If so, identify the property and the number of gallons involved.

Item number

Gallons

Is the estimated value supported by a professional valuation? (✓) ☐ Yes ☐ No

Item no.

Timber

Is any of the property described below agricultural property which consists of trees or underwood? (✓) ☐ Yes ☐ No

If so, identify clearly the lands involved.

The value of the lands should include the value of the trees and underwood.

Consecutive Number	SITUATION OF PROPERTY		NATURE OF PROPERTY		AREA (Hectares)	TENURE		Estimated market value of property €
	County: City: Town:	Electoral Division or Ward	Lands (✓)	Buildings (✓)		If leasehold, date of lease and length of term	If registered, folio number	
1.			<input type="checkbox"/> Agricultural <input type="checkbox"/> Development <input type="radio"/> Residential <input type="radio"/> Commercial <input type="checkbox"/> Mix <input type="checkbox"/> Single Site	<input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="radio"/> Retail <input type="radio"/> Industrial <input type="radio"/> Office <input type="checkbox"/> Agricultural <input type="checkbox"/> Mix				
2.			<input type="checkbox"/> Agricultural <input type="checkbox"/> Development <input type="radio"/> Residential <input type="radio"/> Commercial <input type="checkbox"/> Mix <input type="checkbox"/> Single Site	<input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="radio"/> Retail <input type="radio"/> Industrial <input type="radio"/> Office <input type="checkbox"/> Agricultural <input type="checkbox"/> Mix				
3.			<input type="checkbox"/> Agricultural <input type="checkbox"/> Development <input type="radio"/> Residential <input type="radio"/> Commercial <input type="checkbox"/> Mix <input type="checkbox"/> Single Site	<input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="radio"/> Retail <input type="radio"/> Industrial <input type="radio"/> Office <input type="checkbox"/> Agricultural <input type="checkbox"/> Mix				

Part 6 - 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. This schedule is of particular importance for the Valuation Office if disputes arise as to the valuation of property.

Additional copies of the schedule should be used if an estate consists of more than three properties.

Milk Quota

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 and valued separately, i.e. at 1, 2 or 3 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 gallons.

Timber

Where agricultural property consists of trees or underwood, such property should be clearly identified and valued separately, i.e. at 1, 2 or 3 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?

Indicate by ticking (✓) "yes" or "no", as appropriate.

If yes, please retain the valuation in the event that it is required for inspection.

Consecutive Number

Enter each item of property separately.

SITUATION OF 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.

NATURE OF PROPERTY

Specify type of property by ticking the appropriate box under each heading.

AREA

Enter area in hectares (1 hectare = 2.47 acres)

TENURE

If the estate comprises a leasehold in land or buildings, enter the date and 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 - 900 years

If registered, enter the folio number.

Example: Folio 1057 County Galway

If the property is not registered, write "not registered".

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.

Estimated market value of property

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

Part 7 - Summary of Benefits

This section captures particulars of all current benefits greater than €10,000 in value and any benefit which, when aggregated with prior benefits, exceeds 80% of the beneficiary's class threshold.

BENEFICIARY DETAILS

BENEFICIARY DETAILS
PPS No.
Name
Address
Domicile
Residence or ordinary residence

Enter the PPS number, name, address, domicile and residence or ordinary residence of each beneficiary.

Domicile/ Residence/ Ordinary Residence

Details of the domicile and residence/ordinary residence of each beneficiary are required. An inheritance of foreign property is liable to tax only if the disponent or the beneficiary is resident or ordinarily resident in Ireland. This provision is relaxed until 1 December 2004 in the case of foreign domiciled persons. (Refer to Part 1, Paragraph 9, above)

CURRENT BENEFITS

CURRENT BENEFIT(S)		
Title under which the benefit is taken (e.g. will, intestacy, survivorship, settlement etc.)	Group threshold (✓)	Approximate value €
	A. <input type="checkbox"/>	
	B. <input type="checkbox"/>	
	C. <input type="checkbox"/>	

This section captures particulars of all benefits greater than €10,000 in value and any benefit which, when aggregated with prior benefits, exceeds 80% of the beneficiary's group threshold.

Title under which the benefit is taken

State the title under which the benefit is taken, e.g. write will, intestacy, survivorship, settlement etc.

Group threshold

Indicate by ticking (✓) A, B or C, as appropriate. (See Introduction, Paragraph 9).

Approximate value

Enter an approximate value of the benefit passing.

AGGREGABLE PRIOR BENEFITS (WITHIN THE SAME GROUP AS CURRENT BENEFIT)

AGGREGABLE PRIOR BENEFITS (WITHIN SAME GROUP AS CURRENT BENEFIT)			
Date of benefit(s)	Name and address of disponent and date of death (if dead) and PPS No.	Group threshold (✓)	Value €
		A.	
		B.	
		C.	

The benefits required 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.

Example

Current benefit taken from brother (Group B) on 1 September 2002

Prior benefits:

- (a) from sister (Group B) on 1 May 1997
- (b) from cousin (Group C) on 1 June 1994
- (c) from uncle (Group B) on 1 July 1991

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

Date of benefit(s)

Enter the date of the prior benefit(s), e.g. DD/MM/YYYY.

Name and address of disponent and date of death (if dead) and PPS No.

Enter the name, address and PPS number of the disponent and, if dead, state the date of death.

Group threshold

Indicate by ticking (✓) A, B or C, as appropriate. (See Introduction, Paragraph 9).

Value

Enter the taxable value of the prior benefit.

SELF-ASSESSMENT RETURN

SELF-ASSESSMENT RETURN FORM I.T.38 IS REQUIRED WITHIN 4 MONTHS OF THE "VALUATION DATE" FOR EACH BENEFICIARY NAMED WHERE THE VALUE OF HIS BENEFIT(S) EXCEEDS 80% OF HIS GROUP THRESHOLD

A self-assessment return, Form I.T. 38, 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" amount (called threshold amount). The "Guide to completing the Self Assessment Return (Form I.T.38)" provides assistance in completing the tax return.

The return must be made and any tax due paid within four months of a date called the valuation date.

In the case of an 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 a trust.

If the tax is not paid on time, interest at the rate of 0.0322% per day or part of a day is charged. The person primarily responsible for making the return and paying the tax due is the beneficiary.

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	094 21522	MAYO
Cavan	The Courthouse Cavan Co. Cavan	049 4331530	CAVAN LONGFORD
Clonmel	The Courthouse Clonmel Co. Tipperary	052 29183	TIPPERARY
Cork	The Courthouse Camden Quay Cork	021 4271223 021 4275321	CORK
Dundalk	The Courthouse Dundalk Co.Louth	042 9334066	LOUTH MONAGHAN
Galway	The Courthouse Galway	091 562340 091 562162	GALWAY ROSCOMMON
Kilkenny	The Courthouse Kilkenny	056 22073	KILKENNY CARLOW LAOIS
Letterkenny	The Courthouse Letterkenny Co. Donegal	074 28711	DONEGAL
Limerick	4th Floor Bank House 106-108 O'Connell St. Limerick	061 414655	LIMERICK CLARE
Mullingar	The Courthouse Mullingar Co. Westmeath	044 48315	WESTMEATH OFFALY
Sligo	The Courthouse Sligo	071 42228	SLIGO LEITRIM
Tralee	The Courthouse Tralee Co. Kerry	0667121998	KERRY
Waterford	The Courthouse Catherine St. Waterford	051 874144	WATERFORD
Wexford	The Courthouse Wexford	053 22329	WEXFORD

Appendix 2

TAXATION OF FOREIGN PROPERTY

The following table shows the effects of the charge to Capital Acquisitions Tax where the gift or inheritance consists of foreign property:

	Residence or ordinary residence of donor	Residence or ordinary residence of beneficiary	Domicile of donor	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 donor 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

Dublin and Counties West of the Shannon

Setanta Centre, Nassau Street, Dublin 2.

Telephone (01) 670 7500

LoCall 1890 333 001

Counties Kildare and Wicklow and Ground Rents for all Counties

Block I, Irish Life Centre, Lower Abbey Street, Dublin 1.

Telephone (01) 670 7500

LoCall 1890 333 001

Counties Cavan, Louth, Monaghan, Donegal, Leitrim, Longford, Meath & Westmeath

Central Office, Chancery Street, Dublin 7.

Telephone (01) 670 7500

LoCall 1890 333 001

Counties Cork, Kerry, Limerick, Waterford, Carlow, Kilkenny, Wexford, Laois, Offaly & Tipperary

New Government Buildings, Cork Road, Waterford.

Telephone (051) 303 000

LoCall 1890 333 002

Appendix 4

Divorce/Separation and Annulment

Irish Divorce Decrees

Where a couple obtains an Irish divorce, and the court makes an order regarding property under the divorce settlement, the property taken by a divorced spouse in these circumstances is exempt from Inheritance Tax. The exemption applies even though the actual transfer of the property may not take place until some time after the divorce is final, and the couple are no longer man and wife. Once the order to transfer property is made by an Irish court in respect of a divorce decree being granted under the Family Law (Divorce) Act, 1996 the exemption is preserved. Examples of an order regarding property would be the transfer of the family home to one of the spouses or a lump sum payment etc.

A divorced spouse may make a claim against a former spouse's estate, and the court may make an order appropriating part of the estate to him or her. This inheritance will also be exempt from Inheritance Tax once the order is made by the Irish courts under the Divorce Act, notwithstanding the fact that the parties are no longer married.

It is vital to note that after a couple have divorced, any bequest to a former spouse by will is not exempt from Inheritance Tax if it is not the subject of a court order made in connection with the divorce.

Also, the exemption only extends to property which is the subject of an order under the Divorce Act. Any settlements of property or other settlements made without a court order between the parties after the divorce are not exempt, as they are deemed to be passing to and from strangers in blood.

Foreign Divorce recognised in the State

These are divorces recognised under the Domicile and Recognition of Foreign Divorces Act, 1986.

There is no exemption for gifts and inheritances taken by divorced spouses under a Foreign Court Order in respect of a foreign divorce settlement even though the divorce is recognised in the State. Since the property orders were not made by an Irish Court, the exemption from tax does not apply.

However, an application can be made to the Irish courts for a property order under the Family Law Act of 1995 (not the Divorce Act), which, if granted, will extend the exemption to the property concerned.

Foreign Divorce not recognised in the State

These are divorces not recognised under the Domicile and Recognition of Foreign Divorces Act, 1986.

In this situation as the "former" spouses remain legal spouses under Irish law the transfer of property between them does not give rise to tax. However, if either or both enter into a further "marriage" with other partners the transfer of property between the new partners may have tax implications as the partners within the new relationship would not be legal spouses rather they would be treated as strangers in blood (Class C Threshold).

Civil Nullity

Where a civil decree of nullity is granted by the High Court, the marriage is deemed never to have existed and the parties are deemed never to have been husband and wife.

No court orders can be obtained for property or financial support as the parties cease to have any maintenance or succession rights. No tax exemption will apply to any settlements between the parties made after the annulment.

Church Annulment

A church annulment does not invalidate a marriage in civil law. The former spouses are still the legal spouses and the remarried spouses are strangers-in-blood for tax purposes.

Separation

A married couple who separate, whether or not they live apart, are still validly married in the eyes of the law and all tax exemptions will apply to them.

Summary

Irish Divorce

- ◆ Exemption from tax allowed only where the gift/inheritance is the subject of an Irish Court Order under the Family Law (Divorce) Act 1996.
- ◆ The exemption does not extend to anyone other than the divorcing spouses.
- ◆ Normal rules apply to property orders made to children etc. under an Irish Court Order.

Foreign valid Divorce (recognised under the Domicile and Recognition of Foreign Divorces Act, 1986)

- ◆ Exemption from tax allowed only where an order is granted by the Irish courts under the Family Law Act 1995 (not the Divorce Act 1996).
- ◆ Applies to divorced spouses only.
- ◆ Applicant must not have remarried at the time of application for Court Order.
- ◆ Normal tax rules apply to children.

Foreign invalid Divorce (not recognised under the Domicile and Recognition of Foreign Divorces Act, 1986)

- ◆ No tax exemption available
- ◆ Former spouses are the legal spouses.

Appendix 5 - Section 56, Succession Act, 1965

Right of surviving spouse to require dwelling and household chattels to be appropriated.

- 56 - (1) Where the estate of a deceased person includes a dwelling in which, at the time of the deceased's death, the surviving spouse was ordinarily resident, the surviving spouse may, subject to subsection (5), require the personal representatives in writing to appropriate the dwelling under section 55 in or towards satisfaction of any share of the surviving spouse.
- (2) The surviving spouse may also require the personal representatives in writing to appropriate any household chattels in or towards satisfaction of any share of the surviving spouse.
- (3) If the share of a surviving spouse is insufficient to enable an appropriation to be made under subsection (1) or (2), as the case may be, the right conferred by the relevant subsection may also be exercised in relation to the share of any infant for whom the surviving spouse is a trustee under section 57 or otherwise.
- (4) It shall be the duty of the personal representatives to notify the surviving spouse in writing of the rights conferred by this section.
- (5) A right conferred by this section shall not be exercisable –
- (a) after the expiration of six months from the receipt by the surviving spouse of such notification or one year from the first taking out of representation of the deceased's estate, whichever is the later,
- or**
- (b) in relation to a dwelling, in any of the cases mentioned in subsection (6), unless the court, on application made by the personal representatives or the surviving spouse, is satisfied that the exercise of that right is unlikely to diminish the value of the assets of the deceased, other than the dwelling, or to make it more difficult to dispose of them in due course of administration and authorises its exercise.
- (6) Paragraph (b) of subsection (5) and paragraph (d) of subsection (10) apply to the following cases:
- (a) where the dwelling forms part of a building, and an estate or interest in the whole building forms part of the estate;
- (b) where the dwelling is held with agricultural land an estate or interest in which forms part of the estate;
- (c) where the whole or a part of the dwelling was, at the time of the death, used as a hotel, guest house or boarding house;
- (d) where a part of the dwelling was, at the time of the death, used for purposes other than domestic purposes.
- (7) Nothing in subsection (12) of section 55 shall prevent the personal representatives from giving effect to the rights conferred by this section.
- (8) (a) So long as a right conferred by this section continues to be exercisable, the personal representatives shall not, without the written consent of the surviving spouse or the leave of the court given on the refusal of an application under paragraph (b) of subsection (5), sell or otherwise dispose of the dwelling or household chattels except in the course of administration owing to want of other assets.
- (b) This subsection shall not apply where the surviving spouse is a personal representative.
- (c) Nothing in this subsection shall confer any right on the surviving spouse against a purchaser from the personal representatives.
- (9) The rights conferred by this section on a surviving spouse include a right to require appropriation partly in satisfaction of a share in the deceased's estate and partly in return for a payment of money by the surviving spouse on the spouse's own behalf and also on behalf of any infant for whom the spouse is a trustee under section 57 or otherwise.
- (10) (a) In addition to the rights to require appropriation conferred by this section, the surviving spouse may, so long as a right conferred by this section continues to be exercisable, apply to the court for appropriation on the spouse's own behalf and also on behalf of any infant for whom the spouse is a trustee under section 57 or otherwise.
- (b) On any such application, the court may, if of opinion that, in the special circumstances of the case, hardship would otherwise be caused to the surviving spouse or to the surviving spouse and any such infant, order that appropriation to the spouse shall be made without the payment of money provided for in subsection (9) or subject to the payment of such amount as the court considers reasonable.
- (c) The court may make such further order in relation to the administration of the deceased's estate as may appear to the court to be just and equitable having regard to the provisions of this Act and to all the circumstances.
- (d) The court shall not make an order under this subsection in relation to a dwelling in any of the cases mentioned in subsection (6), unless it is satisfied that the order would be unlikely to diminish the value of the assets of the deceased, other than the dwelling, or to make it more difficult to dispose of them in due course of administration.
- (11) All proceedings in relation to this section shall be heard in chambers.

- (12) Where the surviving spouse is a person of unsound mind, a requirement or consent under this section may, if there is a committee of the spouse's estate, be made or given on behalf of the spouse by the committee by leave of the court which has appointed the committee or, if there is no committee, be given or made by the High Court or, in a case within the jurisdiction of the Circuit Court, by that Court.
- (13) An appropriation to which this section applies shall for the purposes of succession duty be deemed to be a succession derived from the deceased.
- (14) In this section –
- “dwelling” means an estate or interest in a building occupied as a separate dwelling or a part, so occupied, of any building and includes any garden or portion of ground attached to and usually occupied with the dwelling or otherwise required for the amenity or convenience of the dwelling;
- “household chattels” means furniture, linen, china, glass, books and other chattels of ordinary household use or ornament and also consumable stores, garden effects and domestic animals, but does not include any chattels used at the death of the deceased for business or professional purposes or money or security for money.

Appendix 6 - Part IX, Succession Act, 1965

Legal right of testator's spouse and provision for children

- 109.- (1) Where, after the commencement of this Act, a person dies wholly or partly testate leaving a spouse or children or both spouse and children, the provisions of this Part shall have effect.
- (2) In this Part, references to the estate of the testator are to all estate to which he was beneficially entitled for an estate or interest not ceasing on his death and remaining after payment of all expenses, debts, and liabilities (other than estate duty) properly payable thereout.
- 110.- In deducing any relationship for the purposes of this Part, the provisions of the Legitimacy Act, 1931, and of section 26 of the Adoption Act, 1952, shall apply as they apply in relation to succession on intestacy.
- 111.- (1) If the testator leaves a spouse and no children, the spouse shall have a right to one-half of the estate.
- (2) If the testator leaves a spouse and children, the spouse shall have a right to one-third of the estate.
- 112.- The right of a spouse under section 111 (which shall be known as a legal right) shall have priority over devises, bequests and shares on intestacy.
- 113.- The legal right of a spouse may be renounced in an ante-nuptial contract made in writing between the parties to an intended marriage or may be renounced in writing by the spouse after marriage and during the lifetime of the testator.
- 114.- (1) Where property is devised or bequeathed in a will to a spouse and the devise or bequest is expressed in the will to be in addition to the share as a legal right of the spouse, the testator shall be deemed to have made by the will a gift to the spouse consisting of –
- (a) a sum equal to the value of the share as a legal right of the spouse, and
- (b) the property so devised or bequeathed.
- (2) In any other case, a devise or bequest in a will to a spouse shall be deemed to have been intended by the testator to be in satisfaction of the share as a legal right of the spouse.
- 115.- (1) (a) Where, under the will of a deceased person who dies wholly testate, there is a devise or bequest to a spouse, the spouse may elect to take either that devise or bequest or the share to which he is entitled as a legal right.
- (b) In default of election, the spouse shall be entitled to take under the will, and he shall not be entitled to take any share as a legal right.
- (2) (a) Where a person dies partly testate and partly intestate, a spouse may elect to take either –
- (i) his share as a legal right, or
- (ii) his share under the intestacy, together with any devise or bequest to him under the will of the deceased.
- (b) In default of election, the spouse shall be entitled to take his share under the intestacy, together with any devise or bequest to him under the will, and he shall not be entitled to take any share as a legal right.
- (3) A spouse, in electing to take his share as a legal right, may further elect to take any devise or bequest to him less in value than the share in partial satisfaction thereof.
- (4) It shall be the duty of the personal representatives to notify the spouse in writing of the right of election conferred by this section. The right shall not be exercisable after the expiration of six months from the receipt by the spouse of such notification or one year from the first taking out of representation of the deceased's estate, whichever is the later.
- (5) Where the surviving spouse is a person of unsound mind, the right of election conferred by this section may, if there is a committee of the spouse's estate, be exercised on behalf of the spouse by the committee by leave of the court which has appointed the committee or, if there is no committee, be exercised by the High Court or, in a case within the jurisdiction of the Circuit Court, by that Court.
- (6) In this section, but only in its application to a case to which subsection (1) of section 114 applies, "devise or bequest" means a gift deemed under that subsection to have been made by the will of the testator.
- 116.- (1) Where a testator, during his lifetime, has made permanent provision for his spouse, whether under contract or otherwise, all property which is the subject of such provision (other than periodical payments made for her maintenance during his lifetime) shall be taken as being given in or towards satisfaction of the share as a legal right of the surviving spouse.
- (2) The value of the property shall be reckoned as at the date of the making of the provision.
- (3) If the value of the property is equal to or greater than the share of the spouse as a legal right, the spouse shall not be entitled to take any share as a legal right.
- (4) If the value of the property is less than the share of the spouse as a legal right, the spouse shall be entitled to receive in satisfaction of such share so much only of the estate as, when added to the value of the property, is sufficient, as nearly as can be estimated, to make up the full amount of the share.
- (5) This section shall apply only to a provision made before the commencement of this Act.

- 117.-(1) Where, on application by or on behalf of a child of a testator, the court is of opinion that the testator has failed in his moral duty to make proper provision for the child in accordance with his means, whether by his will or otherwise, the court may order that such provision shall be made for the child out of the estate as the court thinks just.
- (2) The court shall consider the application from the point of view of a prudent and just parent, taking into account the position of each of the children of the testator and any other circumstances which the court may consider of assistance in arriving at a decision that will be as fair as possible to the child to whom the application relates and to the other children.
- (3) An order under this section shall not effect the legal right of a surviving spouse or, if the surviving spouse is the mother or father of the child, any devise or bequest to the spouse or any share to which the spouse is entitled on intestacy.
- (4) Rules of court shall provide for the conduct of proceedings under this section in a summary manner.
- (5) The costs in the proceedings shall be at the discretion of the court.
- (6) An order under this section shall not be made except on an application made within twelve months from the first taking out of representation of the deceased's estate.
- 118.-Property representing the share of a person as a legal right and property which is the subject of an order under section 117 shall bear their due proportions of the estate duty payable on the estate of the deceased.
- 119.- All proceedings in relation to this Part shall be heard in chambers.

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