

## Capital Acquisitions Tax

### Part 2 –Statement of Affairs (Probate) Form SA.2

This document should be read in conjunction with sections 48, 48A of the Capital Acquisitions Tax Consolidation Act 2003 and the Capital Acquisitions Tax (Electronic Probate) Regulations 2020.

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## Introduction

This manual contains information on the Statement of Affairs (Probate) Form SA.2 and the new probate application process effective from 14 September 2020. The manual also sets out other procedural changes in connection with the administration of estates with effect from 14 September 2020.

The information in this manual is applicable to new applications for a Grant of Representation, otherwise known as a Grant of Probate or Letters of Administration, made on or after 14 September 2020, where the deceased person died on or after 5 December 2001.

References to the Probate Office in this manual include the District Probate Registries.

### 1. Changes to the Probate Application process

Finance Act 2019 (section 63) provided for the inclusion of section 48A to the Capital Acquisitions Tax Consolidation Act (CATCA) 2003. Section 48A provides for the electronic delivery of information to Revenue as part of the probate application process.

From 14 September 2020, intermediaries such as solicitors or agents, and personal applicants such as executors or administrators of an estate, wishing to obtain a Grant of Representation from the Probate Office are required to firstly deliver to Revenue a Form SA.2. Once the Form SA.2 is completed and delivered to Revenue, a Notice of Acknowledgement (Probate) will be generated.

**The Notice of Acknowledgement must be presented to the Probate Office, together with any other documentation required, in order to proceed with the application for a Grant of Representation.**

### 2. About the Statement of Affairs (Probate) Form SA.2

The Statement of Affairs (Probate) Form SA.2 is an account of a deceased person's assets that must be completed and delivered to Revenue when applying for a Grant of Representation.

A Grant of Representation gives authority to the applicant (personal representative i.e. executor / administrator) to finalise the estate of the deceased.

The Form SA.2 combines the functions of the following paper-based forms in one online platform:

- Inland Revenue Affidavit (Form CA24)
- Corrective Affidavit (Form CA26)
- Request for a second or subsequent Grant of Representation (Form A3C)
- Request for Revenue Clearance IT8 (Form CA4).

The Form SA.2 can be completed electronically via either the Revenue Online Service (ROS) or myAccount.

## 2.1 Details to be included in the Statement of Affairs (Probate) Form SA.2

Section 48A (3) CATCA 2003 and the Capital Acquisitions Tax (Electronic Probate) Regulations 2020 set out the information to be included in the Form SA.2.

In summary the completed Form SA.2 should contain:

- The deceased person's:
  - name, last address and PPSN
  - date of birth, date of death and place of death
  - occupation, marital status
  - residence position and domicile at the date of death
  - surviving relatives and their relationship to the deceased
- A full account of the deceased person's assets and liabilities at the date of death
- Information on assets passing outside of the will or intestacy i.e.
  - jointly held property
  - property passing under a nomination, for example, a Credit Union account that the deceased nominated to be paid to a specified beneficiary in the event of their death
- The applicant's:
  - name, address and contact details
  - occupation
  - relationship to the deceased
- Beneficiaries' details:
  - PPSN, name, address and date of birth
  - country of residence and country of domicile
  - relationship to the deceased person
  - details of assets passing to them, by way of will or intestacy, survivorship or nomination
  - value of any prior aggregable benefits received since 5 December 1991
- Details of any [discretionary trust](#) created by the deceased during their lifetime or under their will
- An electronic copy of the:
  - will
  - codicils to the will
  - any other supporting documentation.

### 3. Applying for a Grant of Representation (Probate)

From 14 September 2020, intermediaries such as solicitors or agents, and personal applicants such as executors or administrators of an estate, wishing to obtain a Grant of Representation from the Probate Office must follow a 2-step process:

#### Step 1 -

Deliver a Form SA.2 through either of Revenue's online services:

- [Revenue Online Service](#) (ROS), My Services, ('Gifts and Inheritance') 'Statement of Affairs (Probate) Form SA.2'
- [myAccount](#), Tax Services, ('Gifts and Inheritance') 'Statement of Affairs (Probate) Form SA.2'.

#### Step 2 -

Print the acknowledgement (Notice of Acknowledgement (Probate)) that is generated on successful submission of the Form SA.2. The acknowledgement contains certain key information from the Form SA.2 submitted to Revenue that the Probate Office requires. It should be noted that after 14 September 2020 the Probate Office will not accept applications for Grants of Representation that are not accompanied by a Notice of Acknowledgement (Probate).

**The Notice of Acknowledgement must be presented to the Probate Office, together with any other documentation required, in order to proceed with the application for a Grant of Representation.**

Information on completing the Form SA.2 is available at [Guide to completing a Statement of Affairs \(Probate\) Form SA.2.](#)

#### 3.1. Exclusion from electronic delivery of the Statement of Affairs (Probate) Form SA.2

The quickest, easiest and most secure way to submit the Form SA.2 is through ROS or myAccount. However, in limited circumstances personal applicants can request to submit a paper Form SA.2 to Revenue where:

- There is insufficient internet access available to the applicant, or,
- The applicant is unable to deliver the Form SA.2 electronically due to the applicant's:
  - Age
  - Mental capacity
  - Physical capacity.

The facility to deliver the required information to Revenue in paper format applies to personal applicants only. Solicitors or other intermediaries acting in estates must complete the electronic Form SA.2.

Personal applicants will need to clearly set out the circumstances which prevent them from submitting the Form SA.2 electronically to Revenue on foot of which Revenue will determine if they are to be excluded from this requirement.

To apply for an exemption from filing the Form SA.2 electronically, applicants should contact the [National Capital Acquisitions Tax \(CAT\) Unit](#).

### 3.2. Requirement to make a declaration attesting to the information delivered to Revenue and give an undertaking to submit an amended Statement of Affairs (Probate) Form SA.2

The Statement of Affairs (Probate) Form SA.2 is not a sworn document.

However, Regulation 6 of the Capital Acquisitions Tax (Electronic Probate) Regulations 2020, requires an applicant(s) to make a declaration through the online 'sign and submit' facility that the Form has been fully and correctly completed and all the particulars requested have been supplied. The applicant is also required to give an undertaking to submit an amended Statement of Affairs (Probate) Form SA.2 if at any time it appears that a material error or omission has been made.

Regulation 6 of the Capital Acquisitions Tax (Electronic Probate) Regulations 2020, also provides for a person acting under the authority of the applicant, i.e. a solicitor or other agent, to make the required declaration on behalf of their client. However, responsibility for the information supplied in the Form SA.2 rests with the personal representative.

## 4. Appointing an Irish resident agent where beneficiaries are non-resident

To address the potential risks relating to the payment of Inheritance Tax by non-resident beneficiaries, an Irish resident personal representative taking out a Grant of Probate or Letters of Administration is appointed as an "agent" of any non-resident beneficiary entitled to a benefit exceeding €20,000. This requirement is contained in sections 45AA and 48(10) of CATCA 2003. Under these provisions the agent will be responsible for the Inheritance Tax "pay and file" obligations of the non-resident beneficiary/beneficiaries.

However, the agent is entitled to retain funds sufficient to meet the Inheritance Tax liability from any amounts due to the beneficiary that are under the control of the agent. The liability of the agent is restricted to the extent of the funds available for distribution to the beneficiary.

Where there is no Irish resident personal representative, the personal representatives must appoint a solicitor holding a practicing certificate in the State, as agent, prior to seeking a Grant of Probate or Letters of Administration.

#### 4.1 Steps that can be taken by a resident personal representative or a solicitor to ensure they are not personally liable to the Inheritance Tax of a non-resident beneficiary

As a result of discussions between the Law Society and Revenue, it is accepted that the resident personal representative or solicitor, under section 48(10), may write to Revenue indicating that he or she intends to distribute the assets taken by a non-resident beneficiary from the estate of the deceased within one calendar month, where that personal representative or solicitor is satisfied that any relevant Inheritance Tax “pay and file” obligations have been met.

Revenue may indicate within the timeframe of one calendar month that it is considering conducting a compliance intervention on the Capital Acquisitions Tax IT38 return or pursuing the non-filing of a return by that beneficiary. Where that arises, the resident personal representative or solicitor under section 48(10) should retain control of the assets relating to that beneficiary’s benefit (in so far as he or she has control). This is required until such time as either Revenue confirms in writing that there will be no intervention or the intervention, including any appeal process, is completed and any taxes which are assessable on either the resident Personal Representative or the solicitor under section 48(10), pursuant to section 45AA, of the CATCA 2003, are paid to Revenue.

If Revenue fails to respond within the timeframe of one calendar month advising that the particular benefit may be subject to a compliance intervention, Revenue is not precluded from carrying out an intervention within the usual statutory time limits against the non-resident beneficiary. However where the non-resident beneficiary is selected for intervention, the non-resident beneficiary will be responsible for all aspects of the compliance intervention process under the [Code of Practice for Revenue Audit and other Compliance Interventions](#).

In the event of an additional liability being identified where the resident personal representative or the solicitor under section 48(10) acted honestly and in good faith, and did not deliberately fail to comply with his or her obligations, then Revenue will only seek to enforce liability on the resident personal representative or the solicitor under section 48 (10) to the extent of any assets remaining under his or her control. Any excess liability will be sought by Revenue directly from the non-resident beneficiary and the excess liability will not be enforced against the resident personal representative or the solicitor under section 48(10).

#### 5. Applying for Secondary or subsequent (De Bonis Non) Grants

A secondary or subsequent grant may be required in some circumstances, for example, where the personal representative dies before completing administration of the estate.

From 14 September 2020, an application for a secondary or subsequent (de bonis non) grant, is made through the online Form SA.2, whereby a simplified version of the form will be presented to the user on selecting that a secondary or subsequent grant is required. Once the application is successfully submitted a Notice of

Acknowledgement (Probate) will be automatically generated by Revenue. The applicant must present this Notice to the Probate Office along with any other documents specified by the Probate Office to request a second or subsequent grant.

If an applicant is non e-enabled, they can write to the [National Capital Acquisitions Tax \(CAT\) Unit](#) to request a paper copy of the Form A3C (De Bonis Non Grant application form). Once completed an applicant will be required to return this to the National CAT Unit for processing. A Notice of Acknowledgement (Probate) will issue to the applicant.

**The Notice of Acknowledgement must be presented to the Probate Office, together with any other documentation required, in order to proceed with the application for a Grant of Representation.**

Further information on completing the online application for a secondary or subsequent (de bonis non) grant is available at [Guide to completing a Statement of Affairs \(Probate\) Form SA.2.](#)

## 6. Applying for IT8 Revenue Clearance

A letter of clearance (Form IT8), issued by Revenue, must be presented to Financial Institutions to facilitate the release of jointly held property to the surviving joint holder(s) of:

- Securities, monies held in a bank, post office, building society accounts, etc. in the State which are held in the joint names of the deceased person and any other(s) who is **not** a surviving spouse or surviving civil partner of the deceased person
- and where the amount is:
  - (i) in excess of €50,000 where the deceased person died on or after 26 January 2001
  - (ii) in excess of €6,350 where the deceased person died before 26 January 2001.

From 14 September 2020, requests for an IT8 Letter of Clearance can be made by applicants through the online Form SA.2. Where a joint holder of an account wishes to personally request IT8 Clearance, separate to the application for a Grant of Representation, they may do so by submitting a paper [CA4 Form](#) (Revenue Clearance application form) to the [National Capital Acquisitions Tax \(CAT\) Unit](#).

Further information on requesting IT8 Clearance is available at [Guide to completing a Statement of Affairs \(Probate\) Form SA.2.](#)



## 7. Requirement to deliver an Amended Statement of Affairs (Probate) Form SA.2

If, after the delivery of a Form SA.2, a material error or omission is discovered, it is the responsibility of the applicant to submit an amended Statement. A solicitor can submit an amended Statement of Affairs (Probate) Form SA.2 on their behalf.

Examples of a material error or omission are:

- Property in the estate of the deceased person was omitted as its existence was unknown to the applicant or solicitor at the time of the delivery of the Form SA.2
- Property was included in the original Statement (Form SA.2) which did not form part of the estate of the deceased person.

It should be noted that events that happened after the date of death do not constitute a material error or omission. For example, fluctuations in property values after the date of death are not considered material errors.

### 7.1 Submitting an amended SA.2 Form

#### **Where the original Form SA.2 was submitted online:**

An amended Statement can be made by editing the original Form SA.2 online and re-submitting the Form.

A personal applicant or acting solicitor, can find their previously submitted statement under the 'Manage your Applications' tab on the 'Statement of Affairs (Probate) Form SA.2' home page on [Revenue Online Service](#) or [myAccount](#).

#### **Where the Applicant has filed a paper Form SA.2:**

If an applicant is non e-enabled, they can write to the [National Capital Acquisitions Tax \(CAT\) Unit](#) to request a paper copy of the Amending Statement of Affairs (Probate) Form SA.2A. Once completed the applicant will be required to return this to the National CAT Unit for processing.

**However, where the original application for probate was by submission of a paper Inland Revenue Affidavit (CA24), a paper [CA26/CA26 \(2001 edition\)](#) should be lodged with the Probate Office/Revenue Commissioners.**

Further information on submitting an amended Statement of Affairs (Form SA.2)/Form CA26 is available at [Correcting a Statement of Affairs \(Probate\) Form SA.2 or completing a Corrective Affidavit \(Form CA26\)](#).

### 7.1.1 Delivery of updated Notice of Acknowledgement (Probate) to the Probate Office

A new Notice of Acknowledgement (Probate) will be generated on submission of an amended Form SA.2. The updated notice will reflect the corrected information on the Statement.

**If the Grant of Representation has not been issued at the time the changes are made, the Probate Office will require the updated Notice of Acknowledgement before the Grant can issue.**

**If the Grant of Representation has already been issued at the time the changes are made, the Probate Office will only require the updated Notice of Acknowledgement where there are changes to the assets originally declared.**