

Capital Acquisitions Tax Consolidation Act 2003

Section 5: Gift deemed to be taken – Debt forgiveness arrangements

This document should be read in conjunction with sections 2 and 5 of the Capital Acquisitions Tax Consolidation Act (CATCA) 2003.

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1 Debt forgiveness arrangements

Section 5 CATCA 2003 provides that a person is deemed to take a gift where, under or in consequence of any **disposition**, that person becomes beneficially entitled in possession, otherwise than on a death, to any benefit otherwise than for full consideration in money or money's worth paid by such person.

By virtue of the definition of "disposition" in section 2 (1) CATCA 2003, the release, forfeiture, surrender or abandonment of any debt or benefit, or the failure to exercise a right may be subject to CAT in certain situations.

Where, for **bona fide** commercial reasons, a financial institution enters into a debt restructuring, forgiveness or write-off arrangement with a customer, Revenue's approach, subject to being satisfied as to the **bona fides** of the arrangement is that, as the financial institution does not intend to make a gift of any sort to the mortgagor/debtor, the mortgagor/debtor would not be subject to a CAT charge in respect of any such debt restructuring, forgiveness or write-off arrangement.

This treatment will only apply in the above-mentioned circumstances. It will not apply where any debt restructuring, forgiveness or write-off arrangement is undertaken for the purposes of the avoidance of tax.