

Capital Acquisitions Tax Consolidation Act 2003

Section 28: Taxable value of a taxable gift or inheritance

This document should be read in conjunction with sections 11 and 28 of the Capital Acquisitions Tax Consolidation Act (CATCA) 2003.

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1 Introduction

This document contains guidance on the operation of certain aspects of section 28 CATCA 2003, which sets out how the taxable value of a gift or inheritance is ascertained.

2 Claims for wages etc.

There is a presumption against contractual relations within the family. See *Jones v Padavatton* (1961 1 W.L.R. 328) and *Balfour v Balfour* (1919 2 K.B. 571). Claims by relatives against the estate of a deceased person for wages (e.g., for nursing and maintaining the deceased or for taking over the responsibility of working the deceased's farm) or for the granting of accommodation to the deceased should generally be disallowed because, in the nature of things, they tend not to be accompanied by evidence of legally enforceable contracts.

3 The words “exempt from tax” in section 28(5)(e) CATCA 2003

Section 11 CATCA 2003 provides that an inheritance which consists of non-Irish property in a case where neither the disponent nor the beneficiary are resident or ordinarily resident in the State shall not be a taxable inheritance. The Revenue view is that, for the purposes of section 28(5)(e), this is an exemption of an inheritance.

4 Arrears of income tax, etc., due to HMRC (reciprocal arrangement)

Arrears of Income Tax, Capital Gains Tax (CGT), etc. due to HMRC by a person domiciled in this country are allowed as a debt for Capital Acquisitions Tax (CAT) purposes, provided that the tax was actually paid and whether the deceased person died possessed of assets in the United Kingdom.