Capital Acquisitions Tax Consolidation Act 2003

Section 30: Valuation date for tax purposes

This document should be read in conjunction with sections 2, 3, 13, 30, 51 and 54 of the Capital Acquisitions Consolidation Act (CATCA) 2003.

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Revenue
Cáin agus Custaim na hÉireann
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1 Introduction

The valuation date is the date on which the market value of property comprised in a gift or inheritance is determined and the date by reference to which the return due date is established and Capital Acquisitions Tax (CAT) becomes payable. The valuation date is not a fixed date and must be determined in accordance with the circumstances surrounding the transfer of a benefit. While ascertaining the valuation date of a gift is generally relatively straightforward, the valuation date of an inheritance can be more complex.

As well as being directly relevant in the context of calculating the liability to CAT and the appropriate pay and file date, the valuation date is significant in several other respects:

- to qualify for agricultural relief, the gift or inheritance must consist of ‘agricultural property’ (as defined in section 89(1)) and the beneficiary must pass the ‘80% agricultural property test’ on the valuation date;
- agricultural relief will cease to apply where the agricultural property is disposed of within a period of six years commencing on the valuation date (unless the property is replaced within one year of the disposal);
- to qualify for business relief, the gift or inheritance must consist of ‘relevant business property’ (to be construed in accordance with section 93) on the valuation date;
- business relief will cease to apply where the relevant business property is disposed of within a period of six years commencing on the valuation date (unless the property is replaced within one year of the disposal);
- where tax is being paid by instalments (in accordance with section 54), the first instalment is payable on 31 October immediately after the valuation date;
- where tax is not paid within the allowed timeframe, interest on late payment is charged (under section 51) by reference to the valuation date.

2 Valuation date of an inheritance

In the case of property transferring from a deceased disponer, the valuation date is typically later than the date of the inheritance (date of death) and in most cases is the date of the grant of probate (or the date of the grant of administration for an intestacy). In certain circumstances, however, a benefit does not form part of the estate of the disponer but is acquired by the beneficiary immediately on the disponer’s death or on the ending of an intervening life interest.

2.1 Benefit acquired as part of the administration of an estate

Section 30(4), which is relevant for most inheritances, determines the valuation date in the case of the administration of an estate. The valuation date in these circumstances is the earliest of the following three dates:

- the date on which a personal representative is entitled to retain assets for the benefit of a successor;
- the date on which an asset is retained; or
- the date of delivery of assets, payment etc. to the successor.

'Retainer' is something analogous in character to actual delivery or payment. It is an essential feature of a retainer that the legatee should be entitled either to demand delivery or payment, or to have the beneficial enjoyment of the legacy.

Where an inheritance forms part of the estate of a deceased person, the valuation date is generally the date of the grant of probate (or letters of administration in the case of an intestacy). In the case of a specific bequest, however, where the beneficiary takes immediate possession of an asset, or already has possession, the valuation date can be as early as the date of death.

Example 1

John has left the following legacies in his will and a personal representative has been appointed. Due to the differing characteristics of each legacy, the valuation date is not the same in each case.

(a) Specific bequest of jewellery to Mary

Mary has received a specific bequest of a watch of which she has already taken possession. In this instance, the valuation date is the date of John's death.

(b) Pecuniary legacy of €5,000 to Tom

Tom has been left €5,000 to be provided from John's bank account. The valuation date is the date of the grant of probate. Were Tom to be given this money in advance of probate being granted then the valuation date would be the date of payment.

(c) Residue to Anne

The valuation date is the date of the grant of probate as the content of the residue cannot be established until the full debts, costs and liabilities of John's estate have been established.

2.2 Advances out of residue

Where different parts of the residue of the estate of a deceased person are retained successively in the form of advances to the residuary legatee by the deceased's personal representative:

- each advance and the final distribution have (as indicated in section 30(5) CATCA 2003) a separate valuation date for Inheritance Tax purposes,
- the Inheritance Tax on the residuary estate (a single inheritance) is apportioned between the different parts in exactly the same way as Inheritance Tax is apportioned when on a death a number of simultaneous

inheritances with different valuation dates are taken by the same beneficiary, and

- interest on the respective apportionments of tax is calculated from the respective valuation dates.

2.3 Benefit acquired immediately on a death

Where inheritances transfer outside of the administration of an estate, the valuation date of an inheritance is generally the date of the inheritance (or the date of the gift where a gift becomes an inheritance). In such circumstances a beneficiary gains an immediate interest in a benefit on the death of a disponer or the death of a person holding an intervening life interest.

There are several circumstances in which this can happen:

Jointly held benefits passing by survivorship

Where property is jointly held by two or more persons, the death of one of them will result in a re-distribution of the benefit among the survivor(s). Section 13(1) provides that where joint tenants own property under a joint tenancy arrangement and one of them dies, the survivor(s) take an inheritance from the deceased joint tenant as disponer. Where one party to a joint tenancy agreement dies, that person's interest in the property automatically transfers to the surviving joint tenant(s) without the need for any further act. The valuation date in this instance is the date of death of the disponer.

The cessation of an intervening life interest

Section 2(1) defines the date of an inheritance as including the happening of events set out in section 3(2). Such events include the cessation of a life interest as provided for in section 3(1)(d). Where an intervening life interest ceases, the valuation date is the date of the death of the life tenant. The benefit transfers to the remainderman on that same date.

Example 2

Peter inherited a life interest in a house on his father's death 5 years previously. His father's will stipulated that, on Peter's death, the house would go to his granddaughter Christina. When Peter dies Christina, as remainderman, then receives an immediate interest in the house. The valuation date of that inheritance from her grandfather is the date of Peter's death.

Failure to exercise a power of revocation

Section 30(2)(b) provides that where an inheritance passes to a beneficiary because of a failure to exercise a power of revocation, the valuation date is the date of the death of the disponer.

A similar issue arises with a **donatio mortis causa** whereby a successor takes a gift in contemplation of a death. This usually occurs where a disponer is suffering from a serious illness and is not expected to recover. The gift has already been delivered to the beneficiary but the disponer may reclaim the property at any time prior to his or her death. The inheritance is triggered by a failure to reclaim. Section 30(2)(a) provides that where such an inheritance is taken, the valuation date is the date of the death of the disponer.

Example 3

Mark gifts a holiday home to his son Liam subject to a power of revocation exercisable by Mark. On Mark's death some years later, Liam takes an immediate benefit of the holiday home as Mark never exercised his power to revoke the gift. The valuation date for this inheritance is the date of Mark's death.

Gift becomes an Inheritance

Section 30(3) provides that where a gift becomes an inheritance as a result of the death of the disponer within 2 years of making the gift, the valuation date is the date of the gift.

3 Valuation date of a gift

The Valuation date of a gift is, as a general rule, the date of the gift. The exceptions to this general rule are set out below.

3.1 Gifting on of an interest in an estate not yet received

Section 30(7) provides that where a person makes a gift of his or her share in a deceased person's estate before the estate is distributed, the valuation date of this gift will be the same as the valuation date of the inheritance.

Example 4

Kate inherits the residue of her mother Pamela's estate. Before the estate is administered and Kate's interest in it is established, she gifts that interest to her son Shane. While the date of the gift is the date on which Shane receives the interest in the residue from his mother Kate, the valuation date of this gift is the valuation date of the inheritance taken by Kate.

4 Free use of property

Section 40(3) provides that where the benefit received is the free use of property, the valuation date is deemed to be 31 December in each year in which the free use is enjoyed. However, if the use, occupation or enjoyment of the property comes to an end before the end of the calendar year, the gift will be treated as having been taken immediately prior to that time. For further information regarding a deemed gift arising in respect of a loan, see CAT Manual Section 46(4A) Requirement to report gifts in respect of certain loans.