

Capital Acquisitions Tax Consolidation Act 2003

Section 87: Exemption of certain benefits (“freedom from tax”)

This document should be read in conjunction with section 87 of the Capital Acquisitions Tax Consolidation Act (CATCA) 2003.

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1 Introduction

In general terms, all gifts and inheritances are chargeable to Capital Acquisitions Tax (CAT) unless a specific exemption is applicable which would remove the gift or inheritance from that charge. A disponent may wish to minimise the exposure of a beneficiary to a charge to CAT by making the gift or the inheritance 'free of tax'.

Section 87 CATCA 2003 provides that where a disponent directs that a gift or an inheritance is to be taken by a beneficiary 'free of tax', the benefit taken is deemed to include the amount of CAT on the gift or inheritance but does not include further CAT on the additional CAT that would otherwise have been payable. In effect, the benefit taken by the beneficiary is increased by including the tax on the gift or inheritance as an additional benefit.

For the purposes of calculating the CAT due, the beneficiary is regarded as taking two benefits, i.e., the amount of the gift or inheritance itself and the tax payable in respect of that gift or inheritance.

2 Example

James inherits €75,000 from a friend 'free of tax' in July 2021. He has taken no prior gifts or inheritances in Group C and therefore the full tax-free threshold of €16,250 is available to him.

The first step is to calculate the amount of tax due on the inheritance. The tax on €75,000 is €19,387.50; i.e. 33% of €58,750 (€75,000 less Group C tax-free threshold of €16,250).

Using the tax on the inheritance, the second step is to calculate the taxable value of the benefit taken by James. The taxable value is €94,387.50; i.e. €75,000 inheritance plus €19,387.50 tax-free benefit.

The final step is to calculate the tax due. This is done by deducting the Group C tax-free threshold amount from the taxable value of the benefit and applying the current CAT rate of 33% on the excess. The tax on the benefit of €94,387.50 is €25,785.37; i.e. 33% of €78,137.50 (€94,387.50 less group C tax-free threshold of €16,250).

The tax due of €25,785.37 is payable out of the residue of the disponent's estate.