

Capital Acquisitions Tax Consolidation Act 2003

Sch. 2: Computation of Tax: Part 1 – Preliminary – Favourite nephew or niece Relief

This document should be read in conjunction with Part 1, paragraph 7, of Schedule 2 to the Capital Acquisitions Tax Consolidation Act (CATCA) 2003.

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1 Introduction

Favourite Nephew/Niece Relief is provided for by Schedule 2, Part 1, paragraph 7 CATCA 2003. It applies to gifts or inheritances of business assets where the beneficiary is the nephew or niece of the donor and has worked substantially on a full-time basis for the 'relevant period' in carrying on, or assisting in carrying on, the trade, business or profession of the donor. The 'relevant period' is:

- the 5-year period prior to the date of the gift or inheritance, or
- where the interest in the property (including shares) is limited to the donor, the 5-year period ending when that interest comes to an end.¹

For the purposes of the relief, a nephew or niece is defined as a child of the donor's brother or sister, or a child of the civil partner of the donor's brother or sister.

The relief applies to gifts or inheritances of business assets only. A nephew or niece who qualifies for the relief is entitled to the Group A tax-free threshold for the purposes of computing the tax payable on those business assets.

Where a gift or inheritance comprises both business and non-business assets, any debts, liabilities etc. must be apportioned between the business and non-business assets. The Group B threshold will apply to the non-business assets.

The relief does not apply where the gift or inheritance is taken by the nephew or niece under an appointment from a discretionary trust set up by the donor.

2 Conditions for the relief

To qualify for the relief, the nephew or niece must have worked substantially on a full-time basis for the relevant period:

- for the donor in carrying on, or assisting in carrying on, the business, trade or profession of the donor and the gift or inheritance consists of property which was used in connection with that business, trade or profession, or
- in a private trading company controlled by the donor, in carrying on or assisting in carrying on the trade, business or profession of the company and the benefit consists of shares in that company.

Where the benefit consists of shares in a private trading company, the company must have been controlled by the donor prior to the benefit and the donor must have been a director of the company. 'Private company controlled by the donor' means a company controlled by the donor, nominees of the donor or trustees of a settlement made by the donor. 'Control' for the purpose of the relief is construed in accordance with section 27(4)(b) CATCA 2003.

¹ This would apply where the donor settles an interest on himself or herself (e.g. for his/her life), such that the relevant period is the 5-year period preceding the ending of the donor's interest.

For the nephew or niece to be treated as working substantially on a full-time basis in the business, he or she must work:

- (a) more than 24 hours per week at the place where the business, trade or profession is carried on,
or
- (b) more than 15 hours per week at the place where the business, trade or profession is carried on exclusively by the disposer, any spouse or civil partner of the disposer and the nephew or niece.

3 Examples

1. James inherits his uncle Michael's estate. The inheritance comprises:
 - (a) business assets - a pub with a market value of €500,000 and stock-in-trade valued at €30,000,
and
 - (b) non-business assets valued at €150,000.

James had worked substantially on a full-time basis in the business for 5 years prior to Michael's death and qualifies for 'favourite nephew' relief in respect of the business assets. He is therefore entitled to the Group A threshold for the business assets valued at €530,000. He is entitled to the Group B threshold in respect of the non-business assets valued at €150,000.

2. Michael settles his business on trust for himself for life with remainder to his nephew James. The 'relevant period' is 5 years ending on the termination of Michael's life interest. Therefore, provided James had worked for Michael for the 5-year period ending on Michael's death, he would qualify for the relief.
3. Michael dies leaving his business to his wife Sarah for her life with remainder to his nephew James. James had been working in the business with Michael on a full-time basis for a period of 7 years prior to Michael's death. As the 'relevant period' is 5 years ending on the date of the inheritance, the relief will apply. There is no requirement for James to have worked for Sarah.

4 How to claim the relief

Where Favourite Nephew/Niece Relief is claimed, an IT38 return must be filed electronically through [MyAccount](#) or the [Revenue Online Service](#) (ROS).