

Part 2 – The Inland Revenue Affidavit

This document should be read in conjunction with Part 6, Section 48 of the Capital Acquisitions Tax Consolidation Act 2003

Document last updated January 2018

Contents

2.1 Introduction	2
2.2 Processing of the Inland Revenue Affidavit	3
2.3 Appointing an Irish resident agent where beneficiaries are non-resident.....	3
2.4 Steps that can be taken by a resident Personal Representative or a solicitor to ensure they are not personally liable to the Inheritance Tax of a non-resident beneficiary.....	4
2.5 Corrective Affidavit	5
2.6 De Bonis Non Grants (Form A3C).....	5

Capital Acquisitions Tax

Part 2 -The Inland Revenue Affidavit (Form C.A. 24)

2.1 Introduction

The Inland Revenue Affidavit is an account of a deceased's estate that must be completed and sworn by the Personal Representative in order to obtain a Grant of Representation from the Probate Office. The Inland Revenue Affidavit should be submitted directly to the Probate Office, together with all the necessary supporting documentation. The Affidavit must be submitted in duplicate and once the Grant of Representation issues in the deceased person's estate, one of the duplicate Inland Revenue Affidavits already lodged in the Probate Office will be furnished to the Revenue Commissioners together with a copy of the will (if any). Details regarding the issue of the Grant of Representation and other relevant information held in electronic format by the Probate Office/District Probate Registry are transmitted electronically to the Revenue Commissioners.

[Section 48\(2\) CAT Consolidation Act 2003](#) sets out the information to be provided in the Affidavit.

In summary the completed Affidavit should contain -

- A full account of the deceased's assets and liabilities at the date of death
- Information on, amongst other things, assets passing outside of the will or intestacy and
- Details of the beneficiaries and the value of the benefits taken.

The importance of the Grant of Representation (also known as a Grant of Probate or Letters of Administration (where there is no will)) is that it gives legal confirmation to the appointment of the Personal Representative and acts as an assurance to financial institutions and to others that they can safely transfer the deceased's assets into the hands of the Personal Representative for distribution according to the terms of the will or the intestacy, having first discharged any debts of the deceased.

2.2 Processing of the Inland Revenue Affidavit

Revenue staff no longer provides certification before an Inland Revenue Affidavit is submitted to the Probate Office. The Inland Revenue Affidavit must now be lodged first with the Probate Office, where it will be fully processed. The Probate Office will then send a copy of same to Revenue together with an electronic version of data that the Probate Office themselves extract. Practitioners are reminded that they should no longer use the old version of the Inland Revenue Affidavit for deaths occurring on or after 5 December 2001.

Due care and attention should be taken by practitioners and other applicants in completing the Inland Revenue Affidavit as errors or incomplete information will delay the issuing of the Grant of Representation. The most common reasons as to why applications for a Grant of Representation are rejected are set out in this document from the Courts Service website: [Rejected applications: most common reasons](#)

Where old versions of the Inland Revenue Affidavit are received by Revenue after 14 June 2010, Revenue staff will return these to the sender for completion of the new form and for transmission directly to the Probate Office.

Revenue's Guide to completion of the Inland Revenue Affidavit is available at: [Guide to completing an Inland Revenue Affidavit \(CA24\)](#).

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

2.3 Appointing an Irish resident agent where beneficiaries are non-resident

To address the risks relating to the payment of CAT by non-resident beneficiaries, an Irish resident Personal Representative taking out Probate or Letters of Administration is appointed as an "Agent" of a non-resident beneficiary entitled to a benefit exceeding €20,000.

This requirement is contained in section 45AA and section 48(10) of CATCA 2003 (as inserted by Finance Act 2010). The agent will be responsible for the "pay and file" obligations of the non-resident beneficiary/beneficiaries. The agent is

entitled to retain funds sufficient to meet the CAT liability from any amounts due to the beneficiary that are under the control of the agent. The liability of the agent is restricted to the extent of the funds available for distribution to the beneficiary.

Where there is no Irish resident Personal Representative, the Personal Representatives must appoint a solicitor holding a practicing certificate in the State, as agent, prior to seeking Probate or Letters of Administration.

2.4 Steps that can be taken by a resident Personal Representative or a solicitor to ensure they are not personally liable to the Inheritance Tax of a non-resident beneficiary

As a result of discussions between the Law Society and Revenue, it is accepted that the resident Personal Representative or solicitor, under Section 48 (10), may write to Revenue* indicating that he or she is intending to distribute the assets taken by a non-resident beneficiary from the estate of the deceased within one calendar month, where that Personal Representative or solicitor is satisfied that any relevant “pay and file” obligations have been met.

If Revenue indicates within the timeframe of one calendar month that it is considering conducting a compliance intervention on the return, or pursuing the lack of a return, by that beneficiary, the resident Personal Representative or solicitor under Section 48 (10) should retain control of the assets relating to that beneficiary’s benefit (in so far as he or she has control) until such time as either Revenue confirms in writing that there will be no intervention or the intervention, including any appeal process, is completed and any taxes which are assessable on either the resident Personal Representative or the solicitor under Section 48 (10), pursuant to Section 45AA, of the CAT Act are paid to the satisfaction of Revenue.

If Revenue fails to respond within the timeframe of one calendar month advising that the particular benefit may be subject to a compliance intervention, Revenue is not precluded from carrying out an intervention within the usual statutory time limits against the non-resident beneficiary. However where the non-resident beneficiary is selected for intervention, the non-resident beneficiary will be responsible for all aspects of the compliance intervention process under the Code of Practice for Revenue Audit and other Compliance Interventions without prejudice to Revenue's rights, if any, to information as prescribed by law.

In the event of an additional liability being identified where the resident Personal Representative or the solicitor under Section 48 (10) acted honestly and in good faith and did not deliberately fail to comply with his or her obligations, then Revenue will only seek to enforce liability on the resident Personal Representative or the solicitor under Section 48 (10) to the extent of any assets remain under his or her control. Any excess liability will be sought by Revenue directly from the non-resident beneficiary and the excess liability will not be enforced against the resident Personal Representative or the solicitor under Section 48 (10).

* The letter should be sent to Dublin CAT Unit, City Centre/North City PAYE District, Revenue Commissioners, 9/15 Upper O'Connell Street, Dublin 1.

2.5 Corrective Affidavit

A Corrective Affidavit -Form C.A. 26- is required in duplicate where, following the extraction of Grant of Probate or Letters of Administration, the executor or administrator acting in the estate discovers material errors or omissions in the original Inland Revenue Affidavit. Corrective Affidavits are also filed with the Probate Office in the first instance, and copies are received by Revenue.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

2.6 De Bonis Non Grants (Form A3C)

After Probate or Letters of Administration have been granted, but before the estate of the deceased has been fully administered, a situation can arise where the executor or administrator dies. In these circumstances a new executor or administrator must be appointed to complete the administration of the estate.

In such circumstances, a Form A3C is completed in duplicate and sent directly to the Probate Office. A copy will then be sent to Revenue.