The Self-Assessment Return (Form IT38)

Capital Acquisitions Tax Manual Part 3

This document should be read in conjunction with section 46 Capital Acquisitions Tax Consolidation Act 2003

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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Part 3 - The Self-Assessment Return (Form IT38)

See CAT Manual - Part 1 for an introduction to Capital Acquisitions Tax.

3.1 Introduction

A beneficiary is required to make a self-assessment Capital Acquisitions Tax (CAT) return where:

- benefits with a value of at least 80% (section 46(4) CATCA 2003) of the relevant group threshold have been received by the beneficiary. This 80% threshold value is calculated by aggregating the value of the current benefit with the value of benefits received by a beneficiary under the same threshold since 5 December 1991.
- a benefit comprises agricultural or relevant business property, and agricultural or business relief applies, a return must be filed **regardless** of the taxable value of the agricultural property or business property and its proportion of the particular group threshold. This requirement was introduced in Finance Act 2020 (section 55), with effect from 19 December 2020.
- the beneficiary is deemed to have taken a gift for CAT purposes in respect of a specified loan, and
    - no interest was paid on the loan within 6 months of the end of the particular year
    - the aggregate outstanding balance on all specified loans in the year exceeds €335,000 on at least one day during the particular year. This requirement was introduced in Finance Act 2023 (section 80), with effect from 1 January 2024. Further information is available here.

The Self-Assessment Return is made on an IT38. As this is an annual return it can comprise more than one gift or inheritance.

For inheritances, based on an extract of beneficiary information from the Statement of Affairs (Probate) Form SA.2, Revenue's systems will automatically issue a letter to beneficiaries, whom it understands may have a requirement to pay and file a CAT return in a tax year. If for some reason the valuation date does not arise in the anticipated year, the beneficiary simply notifies Revenue, and Revenue will note their records accordingly.

3.1.1 Pay and File Date

The Finance Act 2010 introduced a fixed pay and file date for CAT of 31 October. All gifts and inheritances with a valuation date in the 12 month period ending on the previous 31 August, are required to be returned by 31 October of that year.

Example:

Valuation Date 21 February 2021: File return and pay tax by 31 October 2021.

Valuation Date 6 November 2021: File return and pay tax by 31 October 2022.

Returns may be filed before the due date of 31 October in a year. However, where a return is filed without payment, any payment due must be made by 31 October.

3.1.2 Self-Assessment Return (Form IT38)

The return can be filed and tax paid through myAccount or ROS.

An offline version of the IT38 can also be downloaded. When completed it can be uploaded and the tax paid.

The return may only be filed in paper form where:

- no relief/exemption/credit is claimed, apart from the small gift exemption
- the interest taken is an absolute interest without conditions or restrictions and
- the property included in the return was taken from only one disponer and is not part of a larger benefit or series of benefits taken by the beneficiary on the same day.

The paper return requires the filer to compute the liability. If Revenue is satisfied, based on the data in the return that the tax is correctly computed, an acknowledgement will issue.

However, if Revenue determines a higher liability (say due to the application of a late filing surcharge), an amended assessment will be made.

3.1.3 Surcharge for Late Filing

The Finance Act 2010 introduced a surcharge for those who do not comply with the filing deadline of 31 October. The surcharge is based on a percentage increase in the total tax payable for the year for which the return is late. The surcharge is subject to a grading by reference to the length of the delay, but there is an overall cap on the amount of the surcharge.

A 5% surcharge applies, subject to a maximum of €12,695, where the return is delivered within two months of the filing date (e.g. for the year of assessment 2022, any date between 1 November 2022 and 31 December 2022 inclusive).

A 10% surcharge, up to a maximum of €63,485, applies where the return is not delivered within two months of the filing date.

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