

The Certificate of Discharge - (Forms C.A. 11 and CA44.)

Capital Acquisitions Act – Part 4

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Table of Contents

Part 4 - The Certificate of Discharge (Form C.A. 11)	2
- The Certificate of Personal Discharge (Form C.A. 44)	2
4.1 Introduction- Abolition of the status of CAT as a charge on property that has been the subject of a gift or inheritance in the previous 12 years. Abolition of secondary accountability.	2
4.2 Form I.T. 8 Clearance Letter	3
Form I.T.10 Clearance Letter	3
4.3 Registration of title based on possession- Section 62 CATCA 2003 (Form CA12) ...	3

Capital Acquisitions Tax

Part 4 - The Certificate of Discharge (Form C.A. 11)

- The Certificate of Personal Discharge (Form C.A. 44)

4.1 Introduction- Abolition of the status of CAT as a charge on property that has been the subject of a gift or inheritance in the previous 12 years. Abolition of secondary accountability.

Prior to the enactment of the Finance Act 2010, Capital Acquisitions Tax, which was due and payable on a taxable gift, or inheritance, remained a charge on the property comprised in the gift or inheritance on the valuation date, unless Revenue issued a certificate of discharge (Form C.A.11), or 12 years had passed since the date of the gift or inheritance. The 2010 Finance Act abolished CAT as a charge on property received as a gift or an inheritance and so eliminated the need to apply for certificates of discharge. It had also become common practice in land sales for a purchaser's solicitor to require an unconditional certificate of discharge from a vendor's solicitor. This is no longer needed.

In order to deal with cases where certificates of discharge might be sought, because the 12 years hadn't passed since the passing of this provision, the 2010 Finance Act abolished the 12-year charge for such gifts or inheritances, except in cases where Revenue had instituted proceedings for the recovery of tax on foot of the charge, by the passing of the Act.

Prior to the passing of the Act, CAT legislation extended secondary accountability to a number of other parties (e.g. personal representatives in an inheritance situation or the donor in the case of a gift) where the beneficiary failed to pay the tax due and the person secondarily liable had control over the property passing. This secondary liability gives rise to a number of requests for certificates of personal discharge by those otherwise potentially liable in the event of default by the beneficiary. The 2010 Finance Act abolished secondary accountability for inheritances and gifts. This eliminated a lot of processing and compliance costs relating to certificates of personal discharge (Forms CA44).

In order to deal with legacy cases, secondary accountability was also abolished retrospectively, from the date of the passing of the 2010 Finance Act.

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

[...]

4.2 Form I.T. 8 Clearance Letter

This is a letter of clearance issued in respect of bank deposit accounts held in joint names. It is a statutory requirement (Section 109 CATCA 2003) for access to bank accounts (except current accounts) having a balance at date of death greater than €50,000, which are held in joint names (other than monies held in the joint names of the deceased and his or her spouse).

The form IT8 clearance letter may be obtained by completing [Form CA4](#).

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[...]

Form I.T.10 Clearance Letter

A form IT.10 was a letter of clearance issued by Revenue to the personal representative in respect of bank accounts and also for stocks and shares, held in the sole name of the deceased. There was no statutory basis for Revenue to issue such a clearance letter and so their issuance was discontinued in early 2010.

Letters of Clearance were not Certificates of Discharge from CAT but merely letters to enable funds to be released from estates, without the necessity for a full Grant to be extracted.

4.3 Registration of title based on possession- Section 62 CATCA 2003 (Form CA12)

If a person wishes to be registered as owner of property based on possession under the rules of the Land Registry, they are required to present a certificate issued by the Revenue Commissioners to the effect that the property in question did not become charged to CAT during the relevant period or that any such charge shall be discharged to the satisfaction of the Commissioners.

A copy of the sworn Land Registry Form 5 and application form C.A.12 should be submitted. If these forms are in order then the form C.A.12 can be certified.

There is also a Self-Certification Form I.T. 76 that can be used by solicitors in situations where the property involved is under a certain value as set out in Section 62.