Insurance Policies

Capital Acquisitions Tax Manual Part 15

This document should be read in conjunction with sections 72 and 73 of the Capital Acquisitions Tax Consolidation Act (CATCA) 2003.

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15.1 Introduction

Section 72 CATCA 2003 provides for an exemption from Capital Acquisitions Tax (CAT) for the proceeds of certain life policies taken out by a disponer specifically to pay inheritance tax on bequests made by him or her.

Section 73 CATCA 2003 provides for a similar exemption for the proceeds of certain insurance policies taken out specifically to pay CAT on gifts or inheritances arising on future gifts made by the insured person during his or her lifetime.

Any part of such proceeds not used in this way is liable to CAT.

15.2 Development of the relief

The relief was originally introduced in section 60 Finance Act 1985 which granted an exemption in relation to the proceeds of single-life insurance policies that would otherwise be liable to inheritance tax on the death of the insured person. The relief exempted from inheritance tax the proceeds of any "qualifying insurance policy" taken out under the section by an insured person on his or her life, insofar as the proceeds were used to pay the inheritance tax arising within one year of the insured person's death under dispositions made by the insured (for example, under his or her will). Any part of the proceeds not used in this way is liable to inheritance tax.

Subsequent amendments to the relief extended the provisions in the context of inheritance tax to cover joint lives and survivor policies and contingent life policies. Section 119 Finance Act 1991 introduced a further exemption in relation to certain policies of insurance, the proceeds of which are used to pay gift tax arising in connection with a gift made by the insured person. It exempted from gift tax the proceeds of an approved policy to the extent that the proceeds were used to pay gift tax (or inheritance tax) on a gift made by the insured within one year of the proceeds of the policy becoming payable. Details of the development of the relief are provided at Appendix 1.

15.3 Legislation

15.3.1 Section 72 CATCA 2003

Section 72 provides that the proceeds of a “qualifying insurance policy” taken out by the insured person expressly to pay inheritance tax and approved retirement fund tax[1] due by his or her successors are exempt from CAT, provided certain conditions are met. The policy proceeds are not taken into account for aggregation purposes.

The proceeds of a section 72 policy must be taken on or after the death of the insured person and not later than one year after the death.

A “qualifying insurance policy” is one:

- that is in a form approved by Revenue,
- in respect of which annual premiums have been paid by the insured person during his or her lifetime, and
- that is specifically taken out under section 72 to pay “relevant tax” (i.e., inheritance tax and approved retirement fund (ARF) tax due and payable in respect of a bequest made by the insured person).

The relief applies to the following:

- **Single- life policies**
  The insured takes out a life policy under section 72 and bequeaths the proceeds of the policy to his or her executors on trust or to a named successor to pay “relevant tax” arising on his or her death.
  The insured person may provide for payment of the proceeds on the death of the insured person to a named beneficiary contingent on a specified event; for example, the policy may specify that the proceeds will go to the named beneficiary provided he or she survives the insured person by a specified time period but if this condition is not met then the proceeds will go to another named individual.

- **Joint-lives policies**
  Spouses or civil partners may take out a joint-life policy under section 72 under which annual premiums are paid by either or both of them during their joint lives and by the surviving spouse/civil partner following the death of one and which provides for the payment of the proceeds on the death of the second individual.

[1] Approved retirement fund tax means tax which a qualifying fund manager is obliged to deduct in accordance with the provisions of section 784A(4)(c) of the Taxes Consolidation Act 1997.

This latter individual is treated as the insured person and is deemed to have provided all of the proceeds which can then be bequeathed as part of his or her estate.

A joint policy may also be effected by spouses or civil partners to cover inheritance tax payable on the simultaneous deaths of both spouses or civil partners or in the event of the surviving spouse/civil partner dying within 31 days of the death of the other. A person holding a life interest may take out a section 72 policy in his or her sole name for the benefit of another person on the expiry of that life interest and the proceeds of the policy may be used to pay inheritance tax arising on that event.

Examples of the above policies are set out in paragraph 15.6

15.3.2 Section 73 CATCA 2003

Section 73 extends a similar relief to "relevant insurance policies" taken out by the insured person expressly for the payment of gift tax on *inter vivos* dispositions.

A "relevant insurance policy" is one:

- that is in a form approved by Revenue,
- in respect of which annual premiums have been paid by the insured person during his or her lifetime,
- the proceeds of which are payable on the "appointed date", and
- that is specifically taken out under section 73 to pay "relevant tax" (i.e. gift tax or inheritance tax due and payable in respect of an *inter vivos* disposition).

The "appointed date" is a date that is more than 8 years after the date on which the policy is effected. This time requirement is shortened where the insured person, or his or her spouse or civil partner, dies or becomes critically ill. In such cases, the appointed date is the date on which the proceeds become payable.

The relief does not apply to tax liabilities arising on appointments of property from an *inter vivos* discretionary trust set up by the insured person.

Any unused proceeds of a section 73 policy are deemed to be taken as a gift and are subject to CAT.

15.3.3 Interchangeability between section 72 and section 73 reliefs

While sections 72 and 73 apply to inheritance tax and gift tax, respectively, the reliefs are interchangeable in particular circumstances.

A section 72 policy may also qualify as a section 73 policy, in certain circumstances, where the proceeds are used to pay CAT on a lifetime disposition made by the insured within one year of the proceeds becoming payable. This can arise in the following two situations:

- where the policy has an early encashment clause, provided that the date on which the proceeds become payable is at least eight years after the date on which the policy was effected, or
- where the policy has a 'critical illness' clause and the insurer admits the claim.

A section 73 policy may also qualify as a section 72 policy where the proceeds become payable on the death of the insured person, provided that the policy would have qualified if it had been taken out under section 72.

15.4 Qualifying conditions

15.4.1 Policy must be in a form approved by Revenue

CAT is a self-assessment tax and, although sections 72 and 73 require that a policy must be in a form approved by Revenue, it is not necessary that Revenue should see each customer's policy when it is issued. A policy must be a whole-of-life policy, a whole-of-life policy with premiums ceasing at a specified age, an endowment-assurance policy, a term-assurance policy, or any other policy approved by Revenue. The policy should be of the normal standard type and, where appropriate, may include clauses relating to early encashment, paid-up values and other usual policy conditions.

Where there is more than a single life insured, the policy may be a contingent life policy or a joint lives last survivor policy.

Where a new type of policy product is being brought to market with the intention that the policy will be written as either a qualifying insurance policy for the purposes of section 72, or a relevant insurance policy for the purposes of section 73, the policy provider should submit the following information to Revenue to approve the form of policy:

- A statement confirming that the conditions in section 72 or 73 CATCA 2003, as the case may be, have been satisfied for each of the products offered. A separate confirmation should be provided for each individual condition, rather than one blanket confirmation covering the relevant section of the legislation;
- The application form;
- The brochure including the relevant terms and conditions;
- Any other product information that would assist in reviewing the policy.

Where seeking such approval, documentation should be submitted to Revenue through MyEnquiries, marked for the attention of Financial Services (Insurance) Branch in High Wealth and Financial Services Division.

As turnaround time will take a minimum of 6-8 weeks, it is advisable to send information to Revenue as soon as it is available.

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

[…]

15.4.2 Effected by the insured specifically as a section 72 or 73 policy

The policy must be taken out by an insured person on his or her own life or, by a married couple or civil partners on their joint lives, in accordance with either section 72 or section 73, as appropriate.

The policy must specify that it has been effected under section 72 or section 73, as appropriate. An existing policy not expressly effected under these sections cannot be used to pay CAT under the terms of the relief.

15.4.3 Minimum sum assured

A section 72 policy must have life assurance cover of at least 8 times the annual premium or, in the case of a policy with a premium loading for medical, health or occupational reasons, cover of at least 6 times the annual premium. These ratios must be maintained throughout the life of the policy and the sum assured must be net of any debt due on such sum.

15.4.4 Annual premiums must be paid

Annual premiums must be paid under both sections. Premiums under a section 73 policy must be paid annually for a minimum period of eight years. If annual premiums cease to be paid, no further premium may be added, i.e. a policy may not be revived after it has lapsed due to non-payment of premiums.

Revenue accepts that the requirement for the insured person to pay annual premiums is met where, for *bona fide* policies, the premiums are paid, for example, quarterly or monthly, provided the latter amounts are derivatives of an annual premium. This condition is also considered to be met in the case of a section 72 policy where a paid-up option has been availed of by the insured resulting in a reduced sum assured.

An annual premium in respect of a policy is deemed to be paid by the insured person where the premium is waived by the insurer as a benefit under the policy in the event of the insured being unable to continue working on health grounds.

15.4.5 Minimum duration

Section 73 requires that the policy must be for a minimum duration of 8 years. A policy cannot mature before this “appointed date”.

More than one benefit can be drawn from a section 73 policy and therefore there can be more than one ‘appointed date’ in relation to such a policy.

However, this date may be determined as earlier than the statutory date where the proceeds of a policy are paid on the critical illness of the insured. A critical illness benefit is a benefit payable under a policy in the event of the insurer admitting a claim, in accordance with the policy conditions, that the insured has contracted or undergone a life-threatening illness or disability, such as:

- Heart attack,
- Coronary artery disease surgery,
- Stroke,
- Cancer,
- Paralysis,
- Major organ transplantation,
- Multiple sclerosis,
- Kidney failure, or
- Permanent and total disablement.

Payment on the occurrence of a critical illness is an acceleration of the death benefit.

Where the proceeds are the payment of a surrender value or, for example the payment of say 101% of the bid value of the units then the sum paid does not qualify for the relief.

15.4.6 Premiums paid by the insured person

Sections 72 and 73 require that annual premiums must be paid by the insured person. However, a policy will still qualify as a section 72 or section 73 policy if it is effected by an insured person who is an employee and:

- the premiums, though paid by the employer are a benefit-in-kind chargeable to income tax in the hands of the insured, and
- no deduction is claimed for income tax purposes by the insured person in respect of those premiums.

15.4.7 Policy proceeds must pay 'relevant tax'

"Relevant tax" in sections 72 and 73 refers to gift tax, inheritance tax and approved retirement fund tax as appropriate, payable in respect of an inheritance or gift taken on a disposition made by the insured person.

To ensure that a policy pays 'relevant tax' in line with their wishes, the insured person should specify his or her intentions with regard to the distribution of the proceeds of the policy (see examples at paragraph 15.6.1 and 15.6.2). This may be achieved either:

- through a specific designated successor(s) in his or her will,
- by providing for a similar designation under a trust arrangement or
- by specifically providing for a designated successor(s) within the terms of the policy itself.

Any unused proceeds of a section 72 or 73 policy are deemed to be taken as an inheritance or a gift, respectively and are taxed accordingly.

15.4.8 Time restrictions on use of policy proceeds

For inheritance tax to be considered 'relevant tax' for the purposes of section 72, the inheritance must be taken after the death of the insured person but not later than one year after that death.

In the case of a section 73 policy, 'relevant tax' means gift or inheritance tax payable in connection with an *inter vivos* disposition made by the insured within one year after the 'appointed date'. The relief does not apply to CAT payable on an appointment out of an *inter vivos* discretionary trust set up by the insured as this is not 'relevant tax' under section 73.

15.5 Policy ceases to be a qualifying policy

A policy will immediately cease to be in a form approved by Revenue on the occurrence of any of the following:

- annual premiums in respect of a policy cease to be paid by the insured person before a period of eight years expires after the date the policy is effected, except where premiums cease to be paid by the insured person as a result of a benefit becoming payable under the policy on the critical illness or death of the insured person, or
- during any continuous eight-year period of the policy, throughout which annual premiums are paid by the insured person, the net premium paid in any continuous twelve month period is less than half the net premium paid in any other continuous twelve month period[2], or
- before a period of eight years expires after the date the policy is effected, the net premium paid in any continuous twelve month period is less than half the annual premium paid in the first continuous twelve month period of the policy[3],
- except, for the purposes of section 72 only, where such an occurrence results from:
    - a review of the policy carried out by the life assurance company pursuant to the policy conditions,
    - a change in the sum assured provided under the policy, or
    - the cessation of the payment of annual premiums after the expiry of the initial 8-year period as the result of a paid-up option being availed of for a reduced sum assured.

15.6 Examples

15.6.1 Single life – specific assignment of proceeds

William died in 2025, leaving a net estate of €105,000, exclusive of €10,000 proceeds of a section 72 policy payable to his personal representative. In his will he assigned the proceeds of a section 72 policy to his executor on trust to pay the “relevant tax” arising on his death, any balance of the proceeds to fall into his residuary estate. He bequeathed his residuary estate equally absolutely to his son John, to John’s wife Elizabeth and to John’s son Andrew.

[2] In the case of a policy issued before 29 May 1991 this comparison is made with any other continuous twelve month period and not just the first continuous twelve month period of the policy.

[3] Does not apply to policies issued before 29 May 1991.

In the first instance, the CAT liability is calculated ignoring the proceeds of the section 72 policy. Each beneficiary receives €35,000.

John's tax on €35,000 (threshold amount €400,000) is nil

Elizabeth's tax on €35,000 (threshold amount €20,000) is €4,950

Andrew's tax on €35,000 (threshold amount €40,000) is €1,650

Elizabeth and Andrew receive legacies of €4,950 and €1,650, respectively, from the proceeds of the policy to pay their tax. Those amounts are not liable to CAT. The balance of the proceeds (€3,400) goes equally to John, Elizabeth and Andrew and is taxed as an inheritance of €1133 taken by each of them on the day after William's death.

John's tax on €1133 is nil

Elizabeth's tax on €1133 is €374

Andrew's tax on €1133 is €374

(Note: this example assumes no previous gifts/inheritances in the relevant Groups).

15.6.2 Single life – no specific assignment of proceeds

Dermot died and by will bequeaths his entire estate, including the proceeds of a section 72 policy to his son Darragh absolutely. Dermot is also a joint tenant of a house with his brother Sean, a half share of which passes by survivorship to Sean on Dermot's death.

Both Darragh and Sean are liable to CAT in respect of the benefits taken on the death of Dermot. The proceeds of the section 72 policy, owned by Darragh under the terms of his fathers will, are not available to pay Sean's inheritance tax as Dermot did not provide for a disposition to his brother in this regard in his will.

15.6.3 Joint lives survivor policy

Frank and his wife, Carmel, effect a joint policy under the provisions of section 72, the proceeds of which are to be payable on the death of the survivor of them to the personal representative of that survivor to pay "relevant tax". Frank pays all of the premiums during his lifetime.

Frank dies and by will bequeaths his entire estate to Carmel absolutely. An inheritance between spouses is exempt from CAT. The policy does not mature on Frank's death and after his death Carmel pays the premiums.

On Carmel's death the policy matures and the proceeds are available to pay any "relevant tax" arising on her death under bequests made by her.

15.6.4 Single life contingent policy

David bequeaths his estate (including the proceeds of a section 72 policy) absolutely to his wife, Lorraine, but should she not survive him by 30 days, he bequeaths his estate absolutely to his daughter Emily. David and Lorraine are involved in a car accident. David dies immediately and Lorraine dies 10 days later.

Emily takes David's estate absolutely under the terms of his will. The proceeds of the section 72 policy are available to pay Emily's CAT liability. This is the case as the definition of 'relevant tax' for section 72 includes tax payable under a disposition made by the spouse or civil partner of the insured where the inheritance is taken in the event of the insured not surviving his or her spouse by a period of up to 31 days.

15.6.5 Single life and life interest

Brendan bequeaths his estate to his wife Mary for life, with remainder to their son Ian absolutely. If Mary takes out a section 72 policy the proceeds can be used, on her death, to pay the CAT arising under Brendan's disposition to Ian, or under a disposition made by her.

15.6.6 Section 73 policy

Barbara owns a successful business which she intends to transfer to her children David and Joan in ten years' time. Barbara estimates that the CAT payable in respect of this gift will be in the region of €75,000. In 2018, she decides to take out a section 73 policy for €75,000, the proceeds of which will become payable in ten years' time. In 2028, the policy proceeds will become payable and provided Barbara transfers the business to her children within one year no CAT charge will arise on the proceeds to the extent that they are used to pay the CAT arising on the gift of the business. Should she die after the proceeds become available but before effecting the transfer, the exemption will be lost.

Appendix 1 – Development of the relief

Legislation	Main Changes to the Relief
Finance Act 1985	Section 60, Finance Act, 1985, grants an exemption in relation to the proceeds of qualifying life insurance policies which would otherwise be liable to inheritance tax on the death of the insured person.
Finance Act 1989	Section 84, Finance Act, 1989, extended the provisions of section 60 policies to include the spouse[4] of the insured individual where annual premiums are paid by either or both of them during their joint lives, and by the survivor during the life of the survivor; and the proceeds of the policy are payable on the death of such survivor, or on the simultaneous deaths of both such spouses.
Finance Act 1990	Section 130, Finance Act, 1990, further extended the provisions of section 60 in respect of “joint lives and survivor” policies in the names of two spouses and “contingent life” policies, where the policy is effected by an individual but the proceeds are payable on that individual’s death only if the individual survives his or her spouse.
Finance Act 1991	Section 118, Finance Act, 1991 further extended the provisions of section 60 to allow a life tenant to effect a single life section 60 policy to provide for the inheritance tax arising on his or her death under a disposition made by his or her spouse. It extended the definition of “relevant tax” to include inheritance tax payable in respect of an inheritance taken under a disposition made by a spouse of the insured, where the inheritance is taken on the event of the death of the insured.
	Section 119, Finance Act, 1991 extended the relief to certain policies of insurance when the proceeds of these policies are used to pay gift tax (or inheritance tax) arising in connection with a gift made by the insured.

[4] All references to spouse include civil partners since 1 January 2011 as per Finance (No3) Act 2011