Exemption relating to qualifying expenses of incapacitated individuals

CAT Manual - Part 22

This document should be read in conjunction with section 84 of the Capital Acquisitions Tax Consolidation Act 2003

Document last updated April 2018

Contents

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

22.1 Introduction

Section 84 exempts gifts or inheritances taken exclusively for the purposes of discharging certain medical and related expenses of an individual who is permanently incapacitated by reason of physical or mental infirmity. Such a gift or inheritance is not taken into account in computing a CAT liability.

22.2 Conditions of the relief

- The gift or inheritance must be taken by a person who is permanently incapacitated by reason of physical or mental infirmity.
- The gift or inheritance must be taken exclusively for the purpose of discharging qualifying expenses of the incapacitated person. In this regard it is the intention of the disponer providing the gift or inheritance that determines the availability of the exemption. In the absence of such an intention, it is not relevant that a beneficiary might decide, after receiving an inheritance, to use it to discharge medical expenses.
- The use of the gift or inheritance for any purpose other than the discharge of qualifying medical expenses does not qualify. The exemption may be withdrawn where Revenue is not satisfied that the gift or inheritance was applied or will be applied in discharging qualifying expenses. It is not necessary that the entire gift or inheritance be used for this purpose but any part used for any other purpose does not qualify.
- Qualifying expenses are those that relate to medical care including the cost of maintenance in connection with such medical care.

22.3 Examples

22.3.1 Example 1

David has cerebral palsy. His father died in 2010, leaving a provision in his will that a trust be established to provide for David's ongoing medical care for the remainder of his life. The trust funds have been utilised exclusively since that time to cover David's' hospital charges, doctors' fees and medicines. As these are 'qualifying expenses', the exemption applies in relation to the inheritance.

22.3.2 Example 2

Laura was born profoundly deaf. Her uncle left her a lump sum in his will to which he assigned no particular purpose or conditions. Laura went on to spend the money on cochlear implant treatment. As there is no evidence that her uncle intended, either by will or otherwise, to provide the benefit exclusively for Laura's medical and related expenses, this inheritance does not qualify for the exemption.

22.3.3 Example 3

Eileen is elderly and has been diagnosed with dementia. On the advice of her doctors she now requires the round-the-clock care that can be provided by a nursing home. Her four children have agreed in writing that they will each contribute to the costs of their mother's nursing home care. These gifts qualify for the exemption.

22.3.4 Example 4

Brendan lost his leg in a motorcycle accident. His mother left him a legacy in her will to specifically support his recovery from the accident. While the majority of the benefit was spent on rehabilitation expenses such as physiotherapy, prosthesis costs and counselling, Brendan also spent some of the legacy on a deposit for an apartment. The exemption applies only to the medical and related expenses. The benefit spent on the apartment deposit is a taxable inheritance and may result in a tax liability depending on any previous gifts and inheritances received by Brendan under the Group A threshold.