Exemptions from Capital Acquisitions Tax (CAT)

Part 23

This document should be read in conjunction with Part 9 of the Capital Acquisitions Tax Consolidation Act 2003

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23.1 Introduction

CATCA 2003 Part 9 provides a number of exemptions from CAT depending on the relationship between the parties and on the nature of the benefits being provided. The exemptions are summarised below.

23.2 Exemption of small gifts

CATCA 2003 s.69 provides an exemption for gifts (but not inheritances) of up to €3,000 taken by a person from any disponer in a calendar year. Any gifts within this limit are not taken into account in computing tax and are not included in any future aggregation. Where a gift exceeds this limit only the excess is to be taken into account for the purposes of calculating gift tax.

Example

Tom makes a cash gift of €30,000 to his granddaughter Joan in 2015. Tom has made no other gifts to Joan in 2015. The taxable value of the gift is €27,000 after the small gift exemption of €3,000 is deducted.

23.3 Exemption for spouses and civil partners

CATCA 2003 s.70 and s.71 provides a full exemption for gifts and inheritances taken between spouses or between civil partners (within the meaning of the Civil Partnership Act 2010). There is no value limit to this exemption.

Example

John makes a gift of €10,000,000 to his wife Helen in 2017. This gift is completely exempt from gift tax.

23.4 Exemption for certain policies of insurance

CATCA 2003 s.72 and s.73 provide that the proceeds of life insurance policies, taken out expressly to pay CAT, are exempt from tax provided certain conditions are satisfied.

For the inheritance tax exemption, the main condition is that the inheritance must be taken on or after the death of the insured person and not later than one year after this death. For the gift tax exemption, the main condition is that the proceeds from the policy must be payable on a date that is more than eight years after the date on which the policy is effected.

Example

Andrew died in 2016, leaving a net estate of €300,000 but not including the €90,000 proceeds of a section 72 policy. By his will, he bequeaths the proceeds of the policy to his executor on trust to pay inheritance tax arising on his death, any balance of the proceeds to fall into his residuary estate. He bequeaths his residuary estate equally to his son Dermot, to Dermot's wife Evelyn and to Dermot's son Robert.

In the first instance, the inheritance tax is assessed ignoring the proceeds of the policy. Dermot, Evelyn and Robert each receive €100,000. While Dermot is below the tax-free threshold, Evelyn and Robert have tax liabilities of €27,000 and €22,000, respectively.

Evelyn and Robert receive legacies of €27,000 and €22,000 from the proceeds of the policy to pay their tax. Those amounts are not liable to inheritance tax. The balance of €41,000 of the proceeds of the policy goes equally to Dermot, Evelyn and Robert and is taxed as an inheritance of €13,666 taken by each of them on the day after Andrew's death.

23.5 Exemption of certain policies of assurance

CATCA 2003 s.74 provides an exemption from tax for certain policies of assurance on the life of a person where neither the disponer nor the donee or successor is domiciled or ordinarily resident in the State, at the date of the disposition and at the date of the gift or inheritance, respectively.

With effect from 27 March 2013, the exemption applies to policies known as 'capital redemption policies' issued by life assurance companies. These are a specific type of life assurance where there is no actual life assured under the assurance contract, but the policy is of a type that is in practice regarded as part of life assurance business.

23.6 Exemption of certain investment entities

CATCA 2003 s.75 provides an exemption from tax for gifts and inheritances of units of certain investment entities (defined in the TCA 1997, Part 27). Units held in collective investment schemes, common contractual funds, investment limited partnerships or investment undertakings are exempt from tax in cases where neither the disponer nor the donee or successor is domiciled or ordinarily resident in the State, at the date of the disposition and at the date of the gift or inheritance, respectively. The CAT exemption applies in the case of the transfer of units in an investment limited partnership notwithstanding that this type of entity has been removed from the definition of "investment undertaking" in section 739B(1) TCA 1997.

23.7 Exemption for charitable or public purposes

CATCA 2003 s.76 provides that any gift or inheritance taken for purposes that are charitable or public in accordance with the law of the State is exempt from tax and is not taken into account in computing tax to the extent that Revenue is satisfied that it has been, or will be, applied to such purposes. The charitable or public purposes may be either inside or outside of the State.

Political donations taken and used for “political purposes” as defined by the Electoral (Amendment) Act, 2001 by political parties, politicians and election candidates satisfy the “public purposes” requirement of section 76 provided they meet the various requirements under that Act in relation to the receipt, amount, holding, use and recording of political donations.

23.8 Exemption of heritage property

CATCA 2003 s.77 and s.78 exempts from CAT gifts and inheritances of pictures, prints, books, manuscripts, works of art, jewellery, scientific collections or other things not held for the purposes of trading where the following conditions are satisfied:

(1) the property is of national, scientific, historic or artistic interest;
(2) the property is kept permanently in the State; and
(3) reasonable facilities for viewing are allowed to members of the public or to recognised bodies or to associations of persons.

A specific claim must be made to Revenue for this exemption.

This exemption also applies to houses and gardens in the State not held for the purposes of trading in respect of which:

(1) reasonable facilities for viewing were allowed to the public during the three year period prior to the date of the gift or inheritance; and
(2) in respect of which reasonable facilities for viewing are allowed to the public following the gift or inheritance.

Where heritage property that would qualify for the exemption in section 77 has been held through a family controlled company (within the meaning of CATCA 2003 s. 27) any gift or inheritance of the shares in that company will qualify for exemption from CAT to the extent that the value of the shares relates to the heritage property.

23.9 Exemption of certain inheritances taken by parents

CATCA 2003 s. 79 provides that any inheritance taken by a parent of the disponer is exempt from CAT if that disponer took a non-exempt gift or inheritance from either or both of his or her parents within the five-year period prior to his or her death. It is not necessary that the inheritance be of the same property or of the same value as the prior gift or inheritance.

Example

On the death of his son Tony in 2017, Noel, his father, inherits property worth €5,000,000 from Tony. In 2015, Noel had gifted Tony €20,000 in cash to help him start up a business. The inheritance taken by Noel is fully exempt from inheritance tax

23.10 Exemption for payments relating to retirement

CATCA 2003 s. 80 provides that any retirement benefit, redundancy payment or pension paid to an employee or a former employee out of funds provided by the employer is not a gift or inheritance for the purposes of the CATCA 2003.

23.11 Exemption of certain securities

CATCA 2003 S 81 provides that a gift or inheritance of certain securities is exempt from CAT provided they have been issued on the condition that they are exempt from CAT when in the beneficial ownership of a person who is not domiciled nor ordinarily resident in the State.

23.12 Exemption of certain receipts

CATCA 2003 s. 82 provides that certain receipts are not gifts or inheritances. The exempted receipts include:

- compensation or damages received by a person for any wrong or injury suffered by that person in their person, property, reputation or means of livelihood,

- compensation or damages received by a person for any wrong or injury resulting in the death of any other person;

- winnings from betting or from lotteries etc;
- property provided by friends of a bankrupt person or an arranging debtor to the Official Assignee in Bankruptcy or a remission or abatement of debts by creditors of a bankrupt or arranging debtor to

enable that person to fulfil an offer of composition or a proposal made by a debtor in accordance with the Bankruptcy Act 1988 s. 39 or s. 87;

- any benefit arising out of the discharge of a debt under a Debt Relief Notice or the discharge or reduction in the amount of a debt under a Debt Settlement Arrangement or a Personal Insolvency Arrangement other than by reason of payment of that debt;

- receipts taken by certain relatives of the disponer, while the disponer is alive, for support, maintenance, or education purposes may be exempt from CAT. The payments made by the disponer must be regarded as part of the normal expenditure of a person in the circumstances of the disponer and must be reasonable having regard to the financial circumstances of the disponer.

  With effect from 23 December 2014, in relation to receipts taken by children, the relief is confined to:

  (i) a minor child of the disponer, or a minor child of the civil partner of the disponer, or
  (ii) a child of the disponer, or a child of the civil partner of the disponer, who is older than 18 years but not older than 25 years and who is receiving full-time education at any university, college, school or other educational establishment, or
  (iii) a child of the disponer of any age who is permanently incapacitated by reason of physical or mental infirmity form maintaining himself or herself.

  Also with effect from 23 December 2014, the relief extends to orphaned children under section 82(4), subject to the same qualifying age requirements. Prior to this date the relief was confined to orphans who were minors.

  For more detail on this relief see Revenue's Guide to the CAT Treatment of Receipts by Children from their Parents for their Support, Maintenance or Education.

- ex-gratia payments made on or after 1 August 2013 to an individual or to the estate of a deceased individual by the Minister for Justice, Equality and Defence pursuant to the Magdalene Commission Report in respect of women who were admitted to and worked in Magdalene Laundries. However, the exemption does not extend to the beneficiaries of any subsequent distribution of that individual's estate.

23.13 Exemption where disposition was made by the donee or successor

CATCA 2003 s. 83 provides that CAT is not chargeable on a gift or inheritance taken by a donee or successor under a disposition made by that donee or successor on the basis that a person cannot take a gift or inheritance from himself or herself.

Example

George sets up a discretionary trust in 2015 into which he transfers €2,000,000. He nominates himself, his spouse and his children as the beneficiaries of the trust. In 2017 the trustees appoint €1,000,000 from the trust to George. This payment is exempt because it is a benefit taken by George from himself.

23.14 Exemption relating to qualifying expenses of incapacitated persons

CATCA 2003 s. 84 provides that gifts or inheritances taken exclusively for the purposes of discharging the "qualifying" expenses of an individual who is permanently incapacitated by reason of physical or mental infirmity are exempt from tax

See Part 22 of this manual for a more detailed description of this exemption.

23.15 Exemption relating to retirement benefits

CATCA 2003 s. 85 provides an inheritance tax exemption, in certain circumstances, for inheritances taken by a child over the age of 21 from:

- an approved retirement fund (section 784A TCA 1997);
- an approved minimum retirement fund (section 784C TCA 1997);
- a vested* personal retirement savings account (sections 787A and 787G(4),(4B) TCA 1997) (for inheritances received on or after 27 March 2013); or
- a vested* retirement annuity contract (section 787)(1) TCA 1997.

*deemed to vest on the fund owner's 75th birthday.

23.16 Exemption relating to certain dwellings

CATCA 2003 s. 86 provides an exemption from CAT for inheritances of dwelling houses in certain circumstances. In order for this exemption to apply, all of the following conditions must be satisfied:

(1) the dwelling house must be the principal private residence of the disponer at the date of his or her death;

(2) the dwelling house must have been continuously occupied by the beneficiary as his or her only or main residence for a period of three years immediately preceding the date of the inheritance;

(3) the beneficiary must not be entitled to an interest in any other dwelling house at the date of the inheritance; and

(4) the beneficiary must continue to occupy the dwelling house as his or her only or main residence for a period of six years after the date of the inheritance.

Gifts of dwelling houses to dependent relatives of a donor may also qualify for the exemption in certain circumstances. A dependent relative is a direct relative of the donor, or of the donor's spouse or civil partner, who is permanently and totally incapacitated because of physical or mental infirmity from maintaining himself or herself or who is over the age of 65. Where a gift or an inheritance of a dwelling house by a dependent relative qualifies for the exemption, the dwelling house does not have to have been the principal private residence of the donor.

See Part 24 of this manual for a more detailed description of this exemption.

23.17 Exemption of certain benefits

CATCA 2003 s. 87 provides that, where a disponer makes a direction that a particular gift or inheritance should be taken by a beneficiary free from tax, the benefit is deemed to include the amount of the tax payable on that benefit.

See Part 14 of this manual for a more detailed description of this exemption.

23.18 Exemption of certain transfers from CAT following dissolution of marriage or civil partnership

CATCA 2003 s. 88 provides for a CAT exemption in respect of transfers of property between separated or divorced individuals where the property is transferred on foot of specified Court Orders.