

# Rights of Residence

## Capital Acquisitions Tax Manual Part 25

This document should be read in conjunction with sections 5, 10 and 28 of, and Schedule 1 to, CATCA 2003.

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## 25.1 Introduction

A gift or inheritance may comprise a right of residence or a right of residence and support/maintenance. The right of residence may be in the form of an exclusive right to occupy a dwelling or a general right to occupy a dwelling under a shared occupancy arrangement. The purpose of this manual is to explain the CAT treatment of these benefits.

## 25.2 Exclusive right of residence

Where a person is given an exclusive right to reside in a dwelling, that right may be for the duration of his or her life or for a defined period of time. When calculating the value of this right for CAT purposes, the benefit is treated as a limited interest, the value of which is calculated by reducing the market value<sup>1</sup> of the benefit in accordance with the rules and tables in Schedule 1 CATCA 2003 (section 28(4) CATCA 2003).

Table A in Schedule 1 provides the appropriate factors to be used in determining the value of a life interest depending on the age and gender of the beneficiary. Table B in Schedule 1 provides the appropriate factors to be used in determining the taxable value of an interest for a defined period of time. Detailed guidance on the application of these rules is set out in Revenue Capital Acquisitions Tax Manual [Part 7 “Limited Interests”](#).

### Example 1

John is 37 years old. He receives an exclusive right to reside in a house for the rest of his life. The house is valued at €500,000. The costs are €2,000.

John uses Table A in Schedule 1 to determine the value of his limited interest for CAT purposes.

Taxable value of John’s interest:

Market value	€500,000
Deduct costs	€2,000
<b>Value</b>	<b>€498,000</b>
Multiply by age factor for male 37 years (0.8626)	€429,574
<b>Taxable value</b>	<b>€429,574</b>

<sup>1</sup> In this manual, the market value of a benefit refers to its “incumbrance free value”, i.e. its market value less costs, liabilities and expenses (section 28 CATCA 2003).

## 25.3 General right of residence

Where a person takes a gift or inheritance of a dwelling that is subject to a general, non-exclusive right of another person to reside in the dwelling (which may be accompanied by a right of support/maintenance), both the beneficiary of the right and the beneficiary of the dwelling that is subject to the right receive benefits. For CAT purposes, the values of these benefits are calculated by reference to the “appropriate part” of the market value of the dwelling.

### 25.3.1 The “appropriate part”

The “appropriate part”, often referred to as the “slice”, is calculated using the following formula (sections 5(5) (gift) or 10(2) (inheritance) CATCA 2003):

$$\text{Entire property} \quad \times \quad \frac{\text{Gross annual value of the benefit}}{\text{Gross annual value of entire property}}$$

In the context of a right of residence, the formula can be adjusted to read as follows:

$$\text{Market value of property} \quad \times \quad \frac{\text{Annual value of right of residence}}{\text{Annual letting value of property}}$$

The annual value of a right of residence is to be calculated by reference to the specific facts and circumstances of each case. Given the potential difficulties inherent in obtaining such a calculation in practice. Revenue will accept that the appropriate part is equal to **one-tenth** of the market value of the dwelling-house where there is a right of residence and **one-fifth** where there is a right of residence and support/maintenance.

#### Example 2

In his will, Michael leaves his house to his sister Caroline with a right of residence for their mother Maura for her life. Maura is aged 75 at date of death of Michael. Using figures estimated by an independent valuer, the appropriate part is calculated as follows:

The market value of the property is estimated at €300,000, the annual value of the right of residence is estimated at €3,500 and the annual letting value of the property is estimated at €25,000. Applying the formula:

$$\begin{array}{l} \text{€300,000} \times \frac{\text{€3,500}}{\text{€25,000}} \end{array}$$

Appropriate part = €42,000.

As an alternative to using the formula, the appropriate part can be calculated by reference to one-tenth of the market value of the property, being €30,000.

### 25.3.2 Beneficiary of right to reside in dwelling

The third-party beneficiary of the right of residence receives a limited interest in the appropriate part, the value of which is calculated by reducing the appropriate part in accordance with the rules and tables in Schedule 1 CATCA 2003.

As noted in [25.3.1](#), Revenue accepts that the appropriate part can be one-tenth (or one-fifth) of the market value of the property.

#### **Example 2 (continued)**

Maura takes a 'slice' of the property with a market value of €42,000. Maura is aged 75 and the appropriate factor in Table A of Schedule 1 for a female aged 75 is 0.3743. Maura's taxable value for CAT is €42,000 x .3743 = €15,720.60.

As an alternative to using the formula, Maura's 'slice' can be calculated by reference to one-tenth of the market value of the property, which in this scenario gives a lower value of €30,000. Using this method Maura's taxable value for CAT would be €30,000 x .3743 = €11,229.

### 25.3.3 Beneficiary of dwelling that is subject to third-party right of residence

The beneficiary who takes the absolute interest in the property that is subject to the right of a third party to reside in the property receives a benefit, the value of which for CAT purposes is calculated by reducing the market value of the dwelling by the appropriate part (section 28(8) and (9) CATCA 2003).

As noted in [25.3.1](#), Revenue accepts that the appropriate part can be one tenth (or one-fifth) of the market value of the property.

When the third-party right of residence ceases (e.g. on the death of the third-party beneficiary), the beneficiary of the absolute interest in the property takes a further benefit from the original disponent, the value of which is the appropriate part of the market value on that date (section 37 CATCA 2003). Note that if the method used for calculating the deduction was to take one-tenth (or one-fifth) of the market value of the dwelling, the same method must be used in valuing the cesser of those rights, i.e. one-tenth (or one-fifth) of the market value of the dwelling at the date the right comes to an end.

#### **Example 2 (continued)**

Caroline takes a benefit of a house on which a claim for a right of residence arises.

Caroline's taxable benefit is:

$$€300,000 - €42,000 = €258,000$$

As an alternative, Caroline may instead deduct one-tenth of the market value of the house, being €30,000, leaving a taxable benefit of €270,000.

On Maura's death Caroline's interest in the house is enlarged and she is deemed to take a further inheritance from Michael. This further inheritance is based on the appropriate part of the market value of the house at date of death of Maura. On that date, the market value of the property is estimated at €400,000, the annual value of the right of residence is estimated at €4,000 and the annual letting value of the property is estimated at €30,000. Applying the formula:

$$€400,000 \times \frac{€4,000}{€30,000}$$

Appropriate part = €53,333

If the method used for calculating the deduction was to take one-tenth of the market value of the dwelling, one-tenth of the market value of the dwelling at the date the right comes to an end should be used, being €40,000.

In computing Caroline's liability on this benefit, it must be aggregated with her prior inheritance of €258,000 (or €270,000 if the one-tenth deduction was used) from Michael.