

Limited Interests

Capital Acquisitions Tax Manual Part 7

This document should be read in conjunction with sections 2, 28 and 33 of, and Schedule 1 to, CATCA 2003

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7.1 Introduction

A gift or inheritance may comprise a limited interest in property. This manual provides guidance on the meaning of the term “limited interest”, the rules for calculating the value of a limited interest and the treatment that applies where a limited interest is terminated.

7.2 Meaning of a limited Interest

The term “limited interest” is defined in section 2 of the Capital Acquisitions Tax Consolidation Act 2003 (CATCA 2003) and means:

- an interest (other than a leasehold interest) for the duration of a life (or lives) or for a period certain;
- any other interest which is not an absolute interest.

Accordingly, for CAT purposes, a person takes a limited interest in relation to property where the person receives less than an absolute interest in that property. A limited interest may take the form of an exclusive interest in an asset for a defined period (e.g. for 10 years) or for the duration of a life (e.g. a life tenant).

7.3 Rules for calculating the value of a limited interest

The value of a limited interest for CAT purposes is calculated by reducing the incumbrance free value of the benefit (i.e. market value less costs, liabilities and expenses) in accordance with the rules and tables in Schedule 1 CATCA 2003 (section 28(4) CATCA 2003). There are three parts to Schedule 1:

- Part 1, containing seven specific rules and one general rule for calculating the value of a limited interest using Table A in Part 2 and Table B in Part 3.
- Part 2, containing Table A, which applies where an interest taken is for the duration of a life (or lives). It provides the appropriate factors to be applied by reference to the age and gender of the beneficiary.
- Part 3, containing Table B, which applies where the interest taken is for a definite period.

Tables A and B are reproduced in [Appendices 1 and 2](#).

Guidance on how to apply the **specific rules** in Part 1 is set out in paragraphs [7.3.1](#) to [7.3.7](#).

Where the value of a limited interest is not covered by the specific rules in Part 1, the **general rule** in Part 1 applies. The general rule provides that the value is to be ascertained as if the interest taken were a series of absolute interests in the property applied in satisfaction of the interest from time to time, taken as separate

gifts/inheritances. Such a situation could arise where the value of an interest can only be determined each year, e.g. where an annuity will be paid to a beneficiary each year to bring the net income of that beneficiary up to a certain amount. In such a situation, each annual payment would be treated as a separate gift or inheritance.

7.3.1 Life Interest - single life

The value of an interest for a single life in a capital sum is that sum multiplied by the factor, in column 3 (if male) or 4 (if female) of Table A (interest taken is for the duration of a life which is appropriate to the age and gender of the person for the duration of whose life the interest is to be valued).

Example 1

David is aged 50 and inherits a life interest in a house from his sister Niamh. The house is valued at €500,000 at the valuation date. The taxable value of David's inheritance is calculated as follows:

Market Value	€500,000
Multiply by appropriate age factor	0.7287
David's taxable value is	€364,350

If David pays any consideration for the benefit this would be deductible from the taxable value of €364,350.

On David's death, the house is to pass to Niamh's nephew Karl absolutely. Karl will take an inheritance from Niamh based on the valuation at date of death of David.

7.3.2 Life Interest - joint continuance of 2 lives (shorter of 2 lives)

The value of an interest in a capital sum for the joint continuance of 2 lives is the value of an interest in that sum for the older life, based on the relevant factor in Table A, multiplied by the joint factor in Column 2 of Table A that is appropriate to the age of the younger life.

Example 2

Gary settles €300,000 on trustees to pay the income to his sister, Ciara, for her life or until Gary's death, whichever occurs first. Gary is aged 60 and Ciara is aged 63 at the date of the gift. The taxable value is calculated as follows:

Market Value	€300,000
Multiply by factor for the older	
life (0.6000) X by joint factor for the younger life (0.86)	
	€154,800

Ciara's taxable value is €154,800

7.3.3 Life Interest - joint continuance of 3 or more lives (shortest of 3 or more lives)

The value of an interest in a capital sum for the joint continuance of three or more lives is the value of an interest in that sum for the joint continuance of the two oldest of those lives, multiplied by the joint factor in Column 2 of Table A that is appropriate to the age of the youngest of those lives.

Example 3(a)

Gary settles €300,000 on trustees to pay the income to his sister Ciara for her life or his sister Helen's life, or Gary's life, whichever is the shortest. Gary is aged 60, Ciara is aged 63 and Helen is aged 55 at the date of the gift. The taxable value is calculated as follows:

- a) Value for the joint continuance of the 2 oldest lives

Market Value	€300,000
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Multiply by factor for the oldest

life (0.6000) X by **joint** factor for the

second oldest life (0.86)	<u>€154,800</u>
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- b) Multiply €154,800 by **joint** factor

for the youngest life (0.88)	€136,224
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Ciara's taxable value is €136,224

Example 3(b)

If Gary, Ciara and Helen received a gift of property valued at €300,000 for the joint continuance of their lives the calculation is as for 3(a) but each would have a taxable value of €45,408 (€136,224 x 1/3).

7.3.4 Life Interest - longer of 2 lives

The value of an interest in a capital sum for the longer of 2 lives is the total value of each life interest calculated separately, less the value of an interest for the joint continuance of the 2 lives.

Example 4

Gary settles €300,000 on trustees to pay the income to his sister, Ciara for her life or Gary's life, whichever is the longer. Gary is aged 60 and Ciara is aged 63 at the date of the gift. The taxable value is:

€300,000 x 0.6000 (the factor for Ciara aged 63)	€180,000
€300,000 x 0.5809 (the factor for Gary aged 60)	<u>€174,270</u>
	€354,270
Less value for joint continuance of 2 lives (Example 2)	<u>€154,800</u>
Value of interest in €300,000 for the longer of 2 lives	€199,470
Ciara's taxable value is €199,470	

7.3.5 Life Interest - longest of 3 or more lives

The value of an interest in a capital sum for the longest of 3 or more lives is the value for the longer of the 2 youngest lives.

Example 5

Gary settles €300,000 on trustees to pay the income to his sister, Ciara for her life or his sister Helen's life or Gary's life, whichever is the longest. Gary is aged 60, Ciara is aged 63 and Helen is aged 55 at the date of the gift. The taxable value of the gift is:

€300,000 x 0.5809 (the factor for Gary aged 60)	€174,270
€300,000 x 0.7206 (the factor for Helen aged 55)	<u>€216,180</u>
	€390,450
Less value for the joint continuance of the 2 younger lives	
300,000 x 0.5809 (factor for Gary) x 0.88 (joint factor for Helen)	<u>€153,358</u>
Value of interest in €300,000 for the longest of 3 lives	€237,092
Ciara's taxable value is €237,092	

7.3.6 Interest for a period certain

Where the interest taken is for a fixed period, the figures in Schedule 1 Table B provide the value of an interest in capital of €1 for the number of years. The capital sum is multiplied by the factor appropriate to the number of whole years to get the value of the interest.

If the fixed period includes part of a year, the calculation is based on the value for the number of whole years plus a fraction (number of days in excess of the number of whole years/365) of the difference between the value of an interest in the capital sum for one year longer than the number of whole years in the period and the value for the number of whole years, or zero if that period is less than 1 year

Example 6

Emily takes an interest in a property valued at €400,000 for four years and six months. The taxable value is calculated as follows:

Value for 5 years $€400,000 \times 0.2869$	€114,760
Value for 4 years $€400,000 \times 0.2370$	<u>€94,800</u>
Difference	€19,960
Value for 6 months $€19,960 \times 182.5/365$	€9,980
Emily's taxable value is $(€94,800 + €9,980)$	€104,780

7.3.7 Life interest guaranteed for a fixed period

Where the interest is for life but guaranteed for a minimum period, the value is the higher of (a) the value of the life interest or (b) the value of the interest for the guaranteed period.

Example 7

Gary (aged 60) receives a pension of €25,000 per annum for his life. The pension is guaranteed for 10 years. Assume the capital value is €350,000. The taxable value is calculated as the higher of:

(a) $€350,000 \times 0.5809$ (male aged 60) = €203,315 or

(b) $€350,000 \times 0.4913$ (10 years certain) = €171,955

As the value of the life interest is higher Gary has a taxable value of €203,315.

If Gary was aged 70, the value of the life interest would be $€350,000 \times 0.4173 = €146,055$. In this case as the value for 10 years is higher the taxable value would be €171,955.

7.4 Termination of limited interests

General Rules around the termination of limited interests:

- A remainderman's benefit will not be taxed until it becomes an interest in possession.
- A life-tenant is deemed to die immediately before the release of his or her life interest to the remainderman.
- Deemed death of the life tenant applies only to the inheritance tax claim from the settlor.

- Two claims for tax arise on the release by the life-tenant of the life interest to the remainderman or on the transfer of the remainder interest by the remainderman to the life-tenant i.e. one claim for inheritance tax and one claim for gift tax. A credit is allowed for the inheritance tax against the gift tax.

7.5 Early Termination of Limited Interests

Section 33 CATCA 2003 deals with the termination of limited interests, such as a life interest, before the time when such interests are limited to cease. Where a limited interest comes to an end before the event on which it is limited to cease occurs, such as before the death of a life tenant in a life interest, tax is payable as if the event had occurred.

Common examples of early termination of limited interests are:

- where a life tenant acquires the remainder interest
- where the remainderman acquires the preceding life interest
- where the parties to a settlement agree to terminate the Trust by dividing the trust funds between them.

7.5.1 Life interest ends prematurely

John settles property for life on his wife Marie with remainder to his brother George. During Marie's lifetime she transfers her life interest to George thus ending her life interest and enlarging George's interest into an absolute interest or, alternatively, George transfers his remainder interest to Marie thus ending his remainder interest and enlarging Marie's interest into an absolute interest.

Whether the transfer is from Marie to George or from George to Marie, the effect of the break-up of the settlement is that inheritance tax is payable on the basis that George inherits the full value of the property from John. The life tenant Marie is deemed to die immediately prior to the transfer. Thus, the inheritance tax claim that would have arisen on the death of Marie on the coming to an end of her life interest if the settlement had run its intended course is accelerated to the earlier date on which Marie's life interest actually has come to an end.

Therefore, the primary inheritance tax liability under the original settlement or will is always maintained in all respects as if the life tenant had died immediately prior to the break-up of the trust.

7.5.2 Consideration paid for the advance ending of a life interest

John, in 2010, transfers his shop worth €500,000 to his wife Marie for her lifetime with remainder to his brother George. In 2017, the value of the property is €800,000 and Marie's life interest is valued at €180,000. Marie, in 2017, transfers her life interest to George in consideration of George paying her €100,000.

George is now full owner of the shop and under section 33 of the CATCA 2003 he is liable to inheritance tax on the full market value of the shop taken by him from John. However, while George must pay tax on an inheritance of €800,000, he has paid €100,000 consideration to Marie.

The €100,000 paid by George to Marie is not allowable as consideration against the value of George's inheritance from John. It is allowable only as consideration against the value of the gift from Marie to George.

Likewise, if George, in 2017 transferred his remainder interest valued at €620,000 to Marie in consideration of Marie paying him €500,000, inheritance tax is payable on the basis that George inherits the full value of the property from John. Under section 33 CATCA 2003 Marie is liable for the tax as transferee from George. The payment of €500,000 made by Marie to George is not allowable as a deduction against the taxable value of the inheritance. The €500,000 paid by Marie to George is allowable as consideration against the value of the gift from George to Marie.

Thus, consideration paid by a life tenant to a remainderman or vice versa for a release of his or her interest to the other is not allowed as a deduction against the market value of the property in respect of the primary inheritance tax claim. Such consideration is allowed only against the value of the secondary gift tax claims arising, if any.

Inheritance tax arises on the full market value of the property, in all respects, as if the life tenant had died, and the property had passed to the remainder man.

In this type of settlement break-up, two claims for CAT, i.e. inheritance tax and gift tax can therefore arise on the same property on the same event. Under section 105 CATCA 2003 a credit is allowed for the inheritance tax, which is the first claim against the gift tax, which is the second claim.

7.5.3 Actuarial division

A life tenant and a remainderman may choose to divide a trust fund between them on an actuarial basis. This usually arises where it is in the interest of all parties to acquire liquid funds. However, the actuarial division again does not eliminate the primary inheritance tax liability arising under the original settlement. However, on an actuarial division between the life tenant and the remainderman, no separate gift tax claim would arise.

Michael settles property on trust for John for life with remainder to Patrick. The trust fund is worth €500,000. The value of John's life interest is worth €100,000 and the value of Patrick's remainder interest is worth €400,000.

If the property is sold and the proceeds divided up as €100,000 to John and €400,000 to Patrick, neither John nor Patrick has received a benefit from the other and therefore no gift tax claims arise between John and Patrick.

However, on the break-up of the trust, the primary inheritance tax liability under the original settlement or will is maintained under section 33 CATCA 2003. The full value of the trust fund deemed to have been inherited by Patrick from Michael is charged to Inheritance Tax. The Inheritance Tax claim that would have arisen on the death of John is accelerated to the earlier date of when John's life interest in the trust fund has actually come to an end, which is the date on which the property has been sold, and the date on which the sale proceeds have been divided up between John and Patrick.

7.6 Consideration Paid for Future Interests in Property

If a person makes a payment for the granting to him or her of an interest in property, which is not to take effect until a future date when he or she will eventually come into possession of the property, such consideration is dealt with in as set out below.

In 2010 Liam makes a payment of €100,000 to Michael in consideration of Michael executing a deed under which Michael's public house will become the property of Liam on the death of Michael. At the date of the deed in 2010 the public house is valued at €500,000. Eight years later in 2018 Michael dies and the value of the public house at Michael's death is €1,000,000.

Section 28(10) CATCA 2003 provides a formula for calculation of the deductible consideration. The formula is:

$$A \quad \times \quad \frac{\text{Consideration paid}}{B}$$

'A' = Encumbrance-free value at date of falling into possession

'B' = Market value of expectant interest at date of payment

On the basis that the market value of Liam's expectant interest at date of payment was say €200,000 the deductible consideration would be as follows:

$$\begin{array}{rcccl} \text{€1,000,000} & \times & \frac{\text{€100,000}}{\text{€200,000}} & = & \text{€500,000} \end{array}$$

The taxable value of Liam's inheritance is €1,000,000 minus €500,000, i.e. €500,000.

Appendix 1

TABLE A (CATCA 2003 Sch 1 PART 2)

Years of age (1)	Joint Factor (2)	Value of an interest in a capital of €1 for a male life aged as in column 1 (3)	Value of an interest in a capital of €1 for a female life aged as in column 1 (4)	Years of age (1)	Joint Factor (2)	Value of an interest in a capital of €1 for a male life aged as in column 1 (3)	Value of an interest in a capital of €1 for a female life aged as in column 1 (4)
0	.99	.9519	.9624	21	.97	.9416	.9547
1	.99	.9767	.9817	22	.97	.9387	.9521
2	.99	.9767	.9819	23	.97	.9356	.9493
3	.99	.9762	.9817	24	.97	.9323	.9464
4	.99	.9753	.9811	25	.97	.9288	.9432
5	.99	.9742	.9805	26	.97	.9250	.9399
6	.99	.9730	.9797	27	.97	.9209	.9364
7	.99	.9717	.9787	28	.97	.9165	.9328
8	.99	.9703	.9777	29	.97	.9119	.9289
9	.99	.9688	.9765	30	.96	.9068	.9248
10	.99	.9671	.9753	31	.96	.9015	.9205
11	.98	.9653	.9740	32	.96	.8958	.9159
12	.98	.9634	.9726	33	.96	.8899	.9111
13	.98	.9614	.9710	34	.96	.8836	.9059
14	.98	.9592	.9693	35	.96	.8770	.9005
15	.98	.9569	.9676	36	.96	.8699	.8947
16	.98	.9546	.9657	37	.96	.8626	.8886
17	.98	.9522	.9638	38	.95	.8549	.8821
18	.98	.9497	.9617	39	.95	.8469	.8753
19	.98	.9471	.9596	40	.95	.8384	.8683
20	.97	.9444	.9572	41	.95	.8296	.8610

Years of age (1)	Joint Factor (2)	Value of an interest in a capital of €1 for a male life aged as in column 1 (3)	Value of an interest in a capital of €1 for a female life aged as in column 1 (4)	Years of age (1)	Joint Factor (2)	Value of an interest in a capital of €1 for a male life aged as in column 1 (3)	Value of an interest in a capital of €1 for a female life aged as in column 1 (4)
42	.95	.8204	.8534	66	.85	.4841	.5462
43	.95	.8107	.8454	67	.84	.4673	.5266
44	.94	.8005	.8370	68	.84	.4506	.5070
45	.94	.7897	.8283	69	.84	.4339	.4873
46	.94	.7783	.8192	70	.83	.4173	.4679
47	.94	.7663	.8096	71	.83	.4009	.4488
48	.93	.7541	.7997	72	.82	.3846	.4301
49	.93	.7415	.7896	73	.82	.3683	.4114
50	.92	.7287	.7791	74	.81	.3519	.3928
51	.91	.7156	.7683	75	.80	.3352	.3743
52	.90	.7024	.7572	76	.79	.3181	.3559
53	.89	.6887	.7456	77	.78	.3009	.3377
54	.89	.6745	.7335	78	.76	.2838	.3198
55	.88	.6598	.7206	79	.74	.2671	.3023
56	.88	.6445	.7069	80	.72	.2509	.2855
57	.88	.6288	.6926	81	.71	.2353	.2693
58	.87	.6129	.6778	82	.70	.2203	.2538
59	.86	.5969	.6628	83	.69	.2057	.2387
60	.86	.5809	.6475	84	.68	.1916	.2242
61	.85	.5650	.6320	85	.67	.1783	.2104
62	.85	.5492	.6162	86	.66	.1657	.1973
63	.85	.5332	.6000	87	.65	.1537	.1849
64	.85	.5171	.5830	88	.64	.1423	.1730
65	.85	.5007	.5650	89	.62	.1315	.1616

Years of age (1)	Joint Factor (2)	Value of an interest in a capital of €1 for a male life aged as in column 1 (3)	Value of an interest in a capital of €1 for a female life aged as in column 1 (4)	Years of age (1)	Joint Factor (2)	Value of an interest in a capital of €1 for a male life aged as in column 1 (3)	Value of an interest in a capital of €1 for a female life aged as in column 1 (4)
90	.60	.1212	.1509	96	.49	.0710	.0972
91	.58	.1116	.1407	97	.48	.0642	.0898
92	.56	.1025	.1310	98	.47	.0578	.0828
93	.54	.0939	.1218	99	.45	.0517	.0762
94	.52	.0858	.1132	100 or over	.43	.0458	.0698
95	.50	.0781	.1050				

Appendix 2

TABLE B (CATCA 2003 Sch 1 PART 3)

(Column (2) shows the value of an interest in a capital of €1 for the number of years shown in column (1))

Number of years (1)	Value (2)	Number of years (1)	Value (2)
1	.0654	21	.7574
2	.1265	22	.7731
3	.1836	23	.7878
4	.2370	24	.8015
5	.2869	25	.8144
6	.3335	26	.8263
7	.3770	27	.8375
8	.4177	28	.8480
9	.4557	29	.8578
10	.4913	30	.8669
11	.5245	31	.8754
12	.5555	32	.8834
13	.5845	33	.8908
14	.6116	34	.8978
15	.6369	35	.9043
16	.6605	36	.9100
17	.6826	37	.9165
18	.7032	38	.9230
19	.7225	39	.9295
20	.7405	40	.9360

Number of years (1)	Value (2)	Number of years (1)	Value (2)
41	.9425	46	.9750
42	.9490	47	.9815
43	.9555	48	.9880
44	.9620	49	.9945
45	.9685	50 and over	1.0000