Exemptions from Capital Acquisitions Tax (CAT)

Capital Acquisitions Tax Manual Part 23

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

Document last updated January 2025

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

Table of Contents

23.1 Introduction

Part 9 of the Capital Acquisitions Tax Consolidation Act (CATCA) 2003 provides for a number of exemptions from Capital Acquisitions Tax (CAT). The availability of an exemption will depend on the nature of the relationship between the parties and on the nature of the benefits being provided. This manual provides an overview of the exemptions.

23.2 Exemption of small gifts

Section 69 CATCA 2003 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 of benefits taken. 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 2019. Tom has made no other gifts to Joan in 2019. The taxable value of the gift is €27,000 after the small gifts exemption of €3,000 is deducted.

As noted above, this exemption is not available for inheritances. However, it does apply in circumstances where a gift becomes an inheritance by reason of the death of the disponer within 2 years of the date of the gift.

23.3 Exemption for spouses and civil partners

Section 70 and section 71 CATCA 2003 provide for 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 2020. This gift is completely exempt from gift tax.

23.4 Exemption for certain policies of insurance

Section 72 CATCA 2003 provides for an exemption from CAT for the proceeds of certain life policies taken out by a disponer specifically to pay inheritance tax arising 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 to meet CAT liabilities is subject to tax.

For the inheritance tax exemption, the inheritance must be taken on, or after, the death of the insured person and not later than one year after the death. For the gift tax exemption, 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.

Further details regarding the policies that qualify for the exemption, and the relevant conditions, are set out in CAT Manual Part 15 Insurance Policies.

Example

Andrew died in 2023, 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, with 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

Section 74 CATCA 2003 provides for 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

Section 75 CATCA 2003 provides for an exemption from tax for gifts and inheritances of units of certain investment entities (as defined in Part 27 of the Taxes Consolidation Act (TCA) 1997). 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

Section 76 CATCA 2003 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

Section 77 and section 78 CATCA 2003 exempt 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) on a claim made to Revenue appear to be of national, scientific, historic or artistic interest,
(2) reasonable facilities for viewing were allowed to the public during the three-year period prior to the date of the gift or inheritance, and
(3) 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 section 27 CATCA 2003) 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

Section 79 CATCA 2003 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

In 2020, Noel gifted his son Tony a house. The market value of the house was €620,000. Tony paid CAT on the gift of the house in the amount €93,060 ((€620,000 - €3,000 - €335,000) x 33%). On the death of Tony in 2023, Noel inherits the house from Tony. As Tony took a non-exempt gift from Noel in the 5 years prior to his death (i.e. the house), the inheritance is exempt from CAT under section 79.

23.10 Exemption for payments relating to retirement

Section 80 CATCA 2003 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

Section 81 CATCA 2003 provides for an exemption from CAT for gifts and inheritances of certain **securities** and units in certain unit trust schemes (within the meaning of the Unit Trusts Act 1990), where the trust deed restricts the property subject to the trust to securities that are exempt under this section.

The **securities** within the scope of this exemption are securities that are exempt from taxation by virtue of any enactment, or by virtue of the exercise of any power under any enactment, when they are in the beneficial ownership of a person who is neither domiciled nor ordinarily resident in the State.

To qualify for an exemption under section 81, it must be shown to the satisfaction of Revenue that:

(1) the securities or units were comprised in the disposition continuously for a period of 15 years (6 years if acquired prior to 24 February 2003) immediately before the gift or inheritance,
(2) the securities or units were comprised in the gift or inheritance at the date of the gift or inheritance and at the valuation date, and
(3) the donee or successor is neither domiciled nor ordinarily resident in the State at the date of the gift or inheritance.

The condition at (1) above will not apply where:

(a) the disponer was neither domiciled nor ordinarily resident in the State at the date of the disposition, or
(b) the securities or units were purchased before 26 March 1997, and the disponer was neither domiciled nor ordinarily resident in the State at the date of the gift or inheritance.

23.12 Exemption of certain receipts

Section 82 CATCA 2003 provides for the exemption of certain receipts.

Subsection (1) provides that certain receipts are not gifts or inheritances, as follows:

- compensation or damages received by a person for any wrong or injury suffered by that person to 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;
- *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 (the exemption does not extend to the beneficiaries of any subsequent distribution of that individual's estate);

- general payments and work-related payments made to an individual applicant, or to the estate of a deceased individual applicant, under the Mother and Baby Institutions Payment Scheme Act 2023[1] (the exemption does not extend to the beneficiaries of any subsequent distribution of that individual's estate);
- *ex-gratia* payments made on or after 11 March 2019 pursuant to the CervicalCheck non-disclosure ex-gratia Scheme. Where such payments are made to the estate of a deceased individual, the exemption does not extend to the beneficiaries of that individual's estate;
- *ex-gratia* payments made on or after 9 August 2024 under Phase 1 of the Stardust ex-gratia payment scheme, being the scheme administered by the Minister for Justice in furtherance of a decision of the Government of 9 August 2024 for the families of the deceased victims of the Stardust fire;
- payments made under the COVID-19 Death in Service Scheme for Healthcare Workers;
- winnings (in money or in money's worth) from *bona fide* betting, lotteries, raffles or other games with prizes;
- 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;
- 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 sections 39 or section 87 of the Bankruptcy Act 1988;

Subsection (2)(a) exempts from CAT the receipt in the lifetime of the disponer of money or money's worth for support, maintenance or education taken by:

- a minor child of the disponer, or a minor child of the civil partner of the disponer,
- 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,
- a child of the disponer of any age who is permanently incapacitated by reason of physical or mental infirmity from maintaining himself or herself, or
- a person in relation to whom the disponer stands *in loco parentis*.

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].

[1] For further information on these payments, please see https://www.gov.ie/en/campaigns/2938d-the-mother-and-baby-institutions-payment-scheme/.

Subsection (2)(b) exempts the receipt in the lifetime of the disponer of money or money's worth for support or maintenance taken by a person who is in relation to the disponer a dependent relative under section 466 TCA 1997.

The exemptions provided for in **subsection (2)** will apply only if the provision of such support, maintenance or education, or such support or maintenance:

- would be part of the normal expenditure of a person in the circumstances of the disponer, and
- is reasonable having regard to the financial circumstances of the disponer.

Subsection (3) exempts the receipt by a permanently incapacitated individual of funds, or income deriving from funds, which are held on a qualifying trust (within the meaning of section 189A TCA 1997).

A qualifying trust is a trust which has been established by deed:

1. exclusively for the benefit of one or more named incapacitated individuals,
2. where the trustees hold the trust funds for the benefit of the named incapacitated individual or individuals, and
3. where, in the event of the death of the named incapacitated individual or individuals, the undistributed part of the trust funds are to be applied for charitable purposes.

Subsection (4) exempts the receipt by a minor child of the disponer, or a minor child of a civil partner of the disponer, of benefits for support, maintenance or education, where both of the minor child's parents are deceased. Such receipts will be exempt from CAT where the provision of that support, maintenance or education:

1. is such as would be part of the normal expenditure of a person in the circumstances of the disponer immediately prior to the death of the disponer, and
2. is reasonable having regard to the financial circumstances of the disponer immediately prior to the death of the disponer.

23.13 Exemption where disposition was made by the donee or successor

Section 83 CATCA 2003 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 from CAT because it is a benefit taken by George from himself.

23.14 Exemption relating to qualifying expenses of incapacitated persons

Section 84 CATCA 2003 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.

Further details on the qualifying conditions for the exemption are set out in CAT Manual Part 22 Exemption relating to qualifying expenses of incapacitated individuals.

23.15 Exemption relating to retirement benefits

Section 85 CATCA 2003 provides for an inheritance tax exemption, in certain circumstances, for inheritances taken by a child over the age of 21 where that inheritance comprises:

- an approved retirement fund (section 784A TCA 1997), or
- an approved minimum retirement fund (section 784C TCA 1997)[2];
- 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), or
- a Pan-European Pension Product (PEPP) (as defined in section 787V TCA 1997) where assets of the PEPP are treated as having been made available to an individual in accordance with subsection (4) of section 787AA TCA 1997.

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

[2] Approved Minimum Retirement Funds (AMRF) were abolished with effect from 31 December 2021 in Finance Act 2021.

23.16 Exemption relating to certain dwellings

Section 86 CATCA 2003 provides for 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 beneficially entitled to any other dwelling-house, or to any interest in any other dwelling-house, at certain specified dates, 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 taken by a dependent relative qualifies for the exemption, the dwelling house does not have to have been the principal private residence of the donor.

Further details on this exemption are available in CAT Manual Part 24 Dwelling House Exemption.

23.17 Exemption of certain benefits

Section 87 CATCA 2003 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.

Further details on this exemption are available in CAT Manual Part 14 Gifts and inheritances taken free of tax.

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

Section 88 CATCA 2003 provides for a CAT exemption in respect of transfers of property between separated or divorced individuals where the property is transferred pursuant to certain specified Court Orders.

23.19 Exemption of certain transfers by qualified cohabitants

Section 88A CATCA 2003 provides for a CAT exemption in respect of gifts and inheritances taken by a qualified cohabitant in accordance with a court order made under Part 15 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.