

Tax Treatment of Payments under Mother and Baby Institutions Payments Scheme Act 2023

Part 07-01-45

This document should be read in conjunction with section 205B, 256, 267, 613, 730GA, and 739G of the Taxes Consolidation Act 1997 and section 82 (1)(ba) of the Capital Acquisitions Tax Consolidation Act 2003.

Document Created September 2025

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1 Introduction

The Mother and Baby Institutions Payment Scheme was established to make financial payments, and health supports available to eligible people who spent time in certain Mother and Baby or County Home Institutions. This is a statutory Payment Scheme and is part of a wider package of supports made available to eligible people in the Mother and Baby Institutions Payments Scheme Act 2023. (“the Act of 2023”).

This TDM outlines the exemptions from tax which are in place for certain payments made to individuals by virtue of this legislation.

This manual outlines:

- the income tax and Capital Gains Tax (CGT) treatment of payments, referred to as relevant payments, made to a relevant person. Where the person is deceased at the time of the making of a relevant payment, the exemption will apply in respect of that payment being made directly to the person’s dependant(s);
- the income tax and CGT tax treatment of income arising and gains accruing to a relevant person from their investment, in whole or in part, of relevant payments;
- the Capital Acquisition Tax (CAT) treatment of any payment made under the Mother and Baby Institutions Payments Scheme.

2 Legislation

Section 41 and 42 of Mother and Baby Institutions Payments Scheme Act 2023 amended the Taxes Consolidation Act 1997 (TCA) and the Capital Acquisitions Tax Consolidation Act 2003 (CATCA) respectively, to provide for the tax exemptions in respect of Mother and Baby Institutions payments.

The key amendments include:

- the insertion of a new section 205B 'Payments under Mother and Baby Institutions Payment Scheme Act 2023' into the TCA and an amendment to section 613 TCA to provide for an exemption from income tax and CGT in respect of relevant payments, and an exemption from income tax and CGT in respect of income arising and gains accruing to a relevant person, on the investment of such payments received by them;
- amendments to sections 256, 267, 730GA and 739G TCA to provide for exemptions from Deposit Interest Retention Tax (DIRT) and exit tax for any income arising or gains accruing to a relevant person from the investment of relevant payments received by them;
- an amendment to section 82 CATCA to provide for an exemption from CAT in respect of any payment made under the Mother and Baby Institutions Payments Scheme.¹

¹ See Tax and Duty Manual (TDM) [Section 82 CATCA: exemption of certain receipts](#) for further information on section 82 CATCA.

3 Definitions

The relevant definitions for the purposes of the exemption from income tax and CGT are set out in section 205B TCA.

‘Relevant person’ takes its meaning from Section 2 of the Act of 2023 and means:

A person who is either or both of the following:

- (a) A person who, while the person was a child, was resident in a relevant institution other than in circumstances referred to in paragraph (b):
- (b) A person who, while the person was a child or while the person was an adult, or both, was resident in a relevant institution-
 - (i) for reasons relating to the person’s pregnancy, or the birth or care of the child born as a result of the pregnancy, and
 - (ii) where the primary purpose of the person’s admission to the relevant institution was the provision to the person of shelter and maintenance.

‘Relevant payment’ in relation to a relevant person means a payment made to the relevant person under paragraph (a), or in respect of the person under paragraph (c), of Section 32(1) of the Act of 2023.

- Paragraph (a):
 - subject to paragraph (b) and (c), the applicant,
- Paragraph (c):
 - where section 37 or 38 applies to the application, the personal representatives of, as the case may be, the person to whom section 37 applies or the deceased applicant (within the meaning of section 38) concerned.²

² See [section 37](#) and [section 38](#). Section 37 refers to an application on behalf of a deceased person. Section 38 deals with the continuation of the application if the applicant dies.

4 Tax Exemptions for Mother and Baby Institutions Payments

4.1 Income tax and capital gains tax treatment

Section 205B TCA provides an exemption from income tax and CGT in relation to a 'relevant payment' (see paragraph 3 'Definitions' for the definition of 'relevant payment').

The income tax exemption applies to relevant payments made to a relevant person, or where the relevant person is deceased, payments made to their personal representative(s).

Section 613 TCA provides an exemption from CGT in respect of payments to which section 205B TCA applies.

4.2 Capital acquisitions tax treatment

Section 82(1) CATCA exempts certain receipts from CAT by providing that they are not gifts or inheritances. This includes the receipt of compensation or damages. Mother and Baby Institutions Payments Scheme Act 2023 amended section 82(1) (ba) CATCA to provide for an exemption from CAT for relevant payments made under the Mother and Baby Institutions Payments Scheme.

If an applicant dies before a payment is made under Mother and Baby Institutions Payments Scheme, with the result that such a payment is made directly to their estate, the beneficiaries of that individual's estate will not benefit from an exemption from CAT under section 82(1) CATCA.

5 Tax Exemption for Investment Income and Gains

5.1 Overview

The exemption in respect of income arising and gains accruing from the investment, in whole or in part, applies in respect of relevant payments made to a relevant person. Income derived from the investment of a relevant payment is exempt from income tax in accordance with section 205B(2) TCA.

Gains accruing on the disposal of assets acquired directly or indirectly with such relevant payment or with exempt income derived from such payments are exempt from CGT in accordance with section 205B(3) TCA.

The investment exemption applies to a relevant person who received a relevant payment on or after 30th April 2024³.

5.2 The investment exemption

The investment exemption provides for:

- an income tax, USC and PRSI exemption on income that is-
 - chargeable to tax under Schedule C, Cases III, IV or V of Schedule D, or Schedule F, and
 - arising to a relevant person from the investment, in whole or in part, of a relevant payment (or arising from the investment of such income).
- an exemption from CGT in respect of gains accruing on the disposal of-
 - assets acquired with a relevant payment,
 - assets acquired with tax exempt investment income derived from a relevant payment, or
 - assets acquired directly or indirectly with the proceeds from the disposal of assets acquired with relevant payments or with exempt income derived from relevant payments.

The definition of 'relevant payments' is set out in paragraph 3.

Notwithstanding the fact that deposit interest, Schedule F dividends, or other taxed income arising from the investment of a relevant payment are, under the provisions of section 205B TCA, excluded from total income, a refund of any retention tax or tax credits (as appropriate) attaching to such income may be made, if otherwise due.

³ SI 189 of 2024 provides for section 41 and section 42 of Mother and Baby Institutions Payment Scheme Act 2023 to take effect on 30th April 2024.

5.3 Reinvestment in other assets

Sections 205B(2) and 205B(3) TCA 1997 provide an exemption from income tax and CGT in respect of income arising and gains accruing from the investment, in whole or in part, of relevant payments. Over the period of an investment, the investment may appreciate in value and any re-investment of such funds may also qualify for the exemption. Where proceeds from the disposal of such investments are reinvested, any subsequent gains arising on the disposal of the assets in which such proceeds are reinvested will also be exempt from CGT in the hands of the relevant person.

5.4 Assets financed partly by borrowings

Where a relevant person finances the purchase of an asset partly with a relevant payment and partly with a loan, only a portion of the income arising during their ownership of the asset, or the gain arising on the disposal of same, will qualify for exemption. The income or gain that qualifies is the proportion to which the relevant payment (together with any capital appreciation thereof) used to finance the asset bears to the total funds expended to finance the asset. The exemption can only be given in respect of income arising from the investment of a relevant payment.

5.5 Deposit interest retention tax

A relevant person can make a declaration to Revenue that they would be entitled to a refund of the entire amount of DIRT if so deducted. The financial institution, on receipt of notification from Revenue that no DIRT is to apply, will pay interest without the deduction of DIRT.⁴ A form (Form DE3) will be made available on Revenue's website www.revenue.ie.

5.6 Life assurance exit tax

Under section 730GA TCA, where a relevant person invests a relevant payment or part thereof in a life assurance policy, any exit tax deducted by the life assurance company can be repaid to the relevant person.

The exit tax can be reclaimed, where appropriate, when the annual tax return is submitted to Revenue.

⁴ See related Tax and Duty Manual [Part 08-04-01](#) for further information on the deduction of tax from interest payments by certain deposit takers.

5.7 Exit tax deducted by investment funds

Under section 739G TCA, where a relevant person invests a relevant payment or part thereof in an investment fund, any exit tax deducted by the investment fund can be repaid to the relevant person.⁵

The exit tax can be reclaimed, where appropriate, when the annual tax return is submitted to Revenue.

⁵ See related Tax and Duty Manual [Part 27-01a-02](#) for further information on investment funds.

6 Examples

Example 1:

Anne receives a relevant payment of €21,000 under the Mother and Baby Institutions Payments Scheme Act 2023. She invests the entire amount in shares of Company X. She receives €1,500 in annual dividends. Later, she sells the shares for €25,000.

Income Tax, CGT and CAT Implications:

- **Initial Payment to Anne:** Anne is exempt from income tax, CGT and CAT in respect of the payment of €21,000 she receives.
- **Dividends:** Her annual dividends are entirely exempt from income tax.
- **Capital Gains:** When Anne sells the shares for €25,000, she realizes a gain of €4,000. This entire gain is exempt from CGT.

Example 2:

Brendan receives €15,500 as a relevant payment under the Mother and Baby Institutions Payments Scheme Act 2023. He invests €10,000 from the relevant payment and €10,000 from personal savings to purchase a portfolio of shares for €20,000. The portfolio generates €800 in annual dividends. Upon disposal, the portfolio realizes a total gain of €3,000.

Income Tax, CGT and CAT Implications:

- **Initial payment to Brendan:** Brendan is exempt from income tax, CGT and CAT in respect of the payment of €15,500 he receives.
- **Dividends:** A portion of the dividend payment is exempt, and the remaining portion is taxable.

Exempt Portion: $(€10,000 / €20,000) \times €800 = €400$ is exempt from income tax.

Taxable Portion: The remaining €400 is subject to standard income tax.

- **Capital Gains:** Upon disposal, the portfolio realizes a total gain of €3,000. Again, a portion of the gain is exempt and the remaining portion is taxable.

Exempt Gain: $(€10,000 / €20,000) \times €3,000 = €1,500$ is exempt from CGT.

Taxable Gain: The remaining €1,500 is subject to CGT under standard provisions.

Example 3:

Catherine receives a relevant payment of €32,000 under the Mother and Baby Institutions Payments Scheme Act 2023. She invests it entirely in a savings account. After one year, she earns €500 in interest. She reinvests the principal (€32,000) and the exempt interest (€500) into a money market fund. DIRT is deducted.

Income Tax, CGT and CAT Implications:

- **Initial payment to Catherine:** Catherine is exempt from income tax, CGT and CAT in respect of the payment of €32,000 she receives.
- **Interest:** The €500 interest earned in year 1 is exempt from income tax.
- **Reinvested Funds:** Any future distributions or capital gains from the money market fund attributable to the €32,000 and €500 are also exempt from tax, subject to apportionment if additional funds are introduced.
- **DIRT Exemption:** DIRT at 33% is deducted from interest by the financial institution. (€165). The DIRT can be reclaimed.

Example 4:

Mary, a relevant person, was awarded €54,000 under the Mother and Baby Institutions Payments Scheme and invests €50,000 of it in purchasing a rental property. The total cost of the property is €200,000. €50,000 is financed by her payment and the balance of €150,000 financed with a mortgage. The annual rental profit is €15,000. Mary sold the property in 2024 for €300,000, making a gain of €100,000.

Income Tax, CGT and CAT Implications:

- **Initial Payment to Mary:** Mary is exempt from income tax, CGT and CAT in respect of the payment of €54,000 she receives.
- **Rental Profit:** Only the proportion of rental profit attributable to the investment of the relevant payment is exempt from income tax.

Total Investment: €200,000 (€50,000 relevant payment + €150,000 mortgage).

Percentage funded by relevant payment: 25%.

Exempt Rental profit: 25% of €15,000 = €3,750.

Taxable Rental profit: €11,250.

- **CGT Exemption:** Only the proportion of gain attributable to the investment of the relevant payment is exempt from CGT. The remainder of the gain is taxable under CGT rules.

Percentage funded by relevant payment: 25%.

Exempt Gain: 25% of €100,000 = €25,000.

Taxable Gain subject to CGT: €75,000.

Example 5

John, a relevant person, receives a payment of €26,500 under the Mother and Baby Institutions Payments Scheme and invests it in units in an investment fund. After 5 years, the investment grows in value to €31,500. John disposes of his units and exit tax of 41% is deducted by the investment fund on the €5,000 gain (€2,050).

Income Tax, CGT and CAT Implications:

- **Initial Payment to John:** John is exempt from income tax, CGT and CAT in respect of the payment of €26,500 he receives.
- **Exit Tax:** John can claim a refund of the €2,050 exit tax deducted by the investment fund. He submits an annual tax return to Revenue with supporting documentation.

7 When do the Exemptions take effect?

The amendments to TCA and CATCA provided for sections 41 and 42 respectively of the Mother and Baby institutions Payments Scheme Act 2023 took effect from 30 April 2024.

8 Revenue Contact Details

The quickest, easiest, and most secure way to manage your tax is by using our online services, where you can sign in with your MyGovID or MyAccount login details. Please ensure if contacting Revenue to give your correspondence the correct title, for example; 'Mother and Baby Institutions Payments Scheme'.

Business users can manage their tax affairs via [ROS](#) on www.revenue.ie and through [MyEnquiries](#).