

Personal Insolvency Act 2012

Transfer of “Section 23” Property and Clawback

Part 10-11-01A

This document should be read in conjunction with section 372AP(7A) of the Taxes Consolidation Act 1997

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This manual clarifies the status of a “Section 23” property transferred in trust under the terms of a Debt Settlement Arrangement (DSA) or a Personal Insolvency Arrangement (PIA).

Such a transfer does not give rise to a clawback of Section 23 relief.

In circumstances where the trustee subsequently disposes of the property, that disposal is treated as having been made by the debtor and may give rise to a clawback for the debtor at that stage.

The following is an extract from **Explanatory Note – Personal Insolvency Act 2012 and Section 100 of Finance Act 2013** (Paragraph 4):

“4. Qualifying premises/special qualifying premises held in trust for benefit of creditors (Section 100(1)(d))

Subsection (1)(d) amends section 372AP of the TCA 1997, which provides that a person who claims relief against rental income in respect of allowable expenditure on a “Section 23” property suffers a clawback of that relief if the ownership of the property passes during the 10-year period required under the section. This amendment provides that a transfer of “Section 23” property under a DSA or a PIA by a debtor to a trustee for the benefit of creditors will not be regarded as the passing of the debtor’s interest, thereby ensuring that the transfer will not trigger a clawback of the “Section 23” relief. In circumstances where the trustee subsequently disposes of the property, that disposal is treated as having been made by the debtor and may give rise to a clawback for the debtor at that stage.”