

CervicalCheck

Overview of Tax treatment of payments

Legislation

Section 30 of Finance Act 2024 introduced legislation to provide for exemptions in respect of certain CervicalCheck payments.

This legislation is contained in

- Section 205C of the Taxes Consolidation Act 1997 and
- Section 82(1) of the Capital Acquisitions Tax Consolidation Act 2003.

[s205C TCA 1997](#)

[s82 CATCA 2003](#)

Definitions

“relevant payment” means any of the following:

- a) a payment made pursuant to the CervicalCheck non-disclosure ex-gratia Scheme (that is to say the scheme administered, under that title, by the Minister for Health in furtherance of a decision of the Government of 11 March 2019);
- b) a payment made pursuant to the Act of 2019;
- c) a payment to an appropriate person in respect of compensation following the institution by or on behalf of a relevant woman of a civil action for damages in respect of personal injury, but excluding any compensation to an appropriate person other than a relevant woman, for mental distress resulting from the relevant woman's death;

Definitions

“relevant woman” means-

(a) A woman-

- (i) Identified as part of the Review of Cervical Screening as having CervicalCheck cytology review findings that were discordant with those of the original cytology examination in relation to the woman concerned, or
- (ii) Whose cytology slides were sought, by the Review of Cervical Screening to be re-examined as part of its review but where one or more of those slides could not be re-examined as part of that review by reason of circumstance beyond the control of the woman concerned,

Or

(b) A woman who received a diagnosis of cervical cancer-

- (i) who had a screening history through CervicalCheck,
- (ii) whose diagnosis of cervical cancer was notified to CervicalCheck,
- (iii) whose cytology slides were re-examined as part of the retrospective CervicalCheck cytology clinical audit, and
- (iv) whose cytology review findings, following the re-examination in accordance with *subparagraph (iii)*, were discordant with those of the original cytology examination in relation to the woman concerned;

Definitions

“appropriate person” means-

- (a) A relevant woman, or
- (b) where a relevant woman has died, a dependant of the relevant woman concerned

“dependant” means, in respect of a deceased person whose death is caused by a wrongful act—

- a) a spouse, civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, parent, grandparent, step-parent, child, grandchild, step-child, brother, sister, half-brother or half-sister of the deceased,
- b) a person whose marriage to the deceased has been dissolved by a decree of divorce that was granted under the Family Law (Divorce) Act, 1996 or under the law of a country or jurisdiction other than the State and is recognised in the State,
- c) a person whose civil partnership with the deceased has been dissolved by a decree of dissolution that was granted under the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or under the law of a country or jurisdiction other than the State and is recognised in the State, or
- d) a person who was not married to or a civil partner of the deceased but who, until the date of the deceased’s death, had been living with the deceased as the deceased’s cohabitant within the meaning of section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 for a continuous period of not less than three years, who has suffered injury or mental distress as a result of the death;”

Exemptions

There are two aspects to this exemption measure, the first relates to the initial payment, the second is the investment exemption. Section 30 of Finance Act 2024 provides:

1. Relief from Income Tax, Capital Gains Tax and Capital Acquisitions Tax on certain payments made to the women who have been impacted.
2. Income and gains arising to these women from the investment of Cervical Check payments will also be exempt from the relevant taxes, known as the Investment Exemption.

A relevant woman is also eligible for an exemption from Deposit Interest Retention Tax (DIRT) in respect of interest earned on a relevant payment.

An exemption also applies to Exit tax deducted by a Life Assurance company or investment fund. The tax refund can be claimed when submitting an annual tax return.

Initial Payment

Payments made under the CervicalCheck non-disclosure ex-gratia Scheme.

Payments may be made to the relevant woman. If the relevant woman is deceased, her estate will be invited to participate in the Scheme.

Payments to the relevant woman are exempt from:

- Income Tax
- Capital Gains Tax
- Capital Acquisitions Tax

Payments to the Estate of the relevant woman are exempt from:

- Income Tax
- Capital Gains Tax
- Capital Acquisitions Tax*

*Normal Inheritance tax rules apply to beneficiaries of the estate.



Initial Payment

Payments made under the CervicalCheck Tribunal Act 2019

An “appropriate person” may make a claim. Awards are made to the claimant.

Payments to the relevant woman are exempt from:

- Income Tax
- Capital Gains Tax
- Capital Acquisitions Tax

Payments directly to dependants of the relevant woman are exempt from:

- Income Tax
- Capital Gains Tax
- Capital Acquisitions Tax

Revenue

Cáin agus Custaim na hÉireann
Irish Tax and Customs



Initial Payment

Payments made under a Settlement or Court Award

Payments to the relevant woman are exempt from:

- Income Tax
- Capital Gains Tax
- Capital Acquisitions Tax

Where the relevant woman is deceased, payments to her dependants are exempt from:

- Income Tax
- Capital Gains Tax
- Capital Acquisitions Tax

Where the relevant woman is living, payments to her dependants are not in scope of this exemption.

Compensation monies may be exempt from CAT under other existing exemptions.

Investment Exemption

Income Tax

- The relevant woman will have an exemption in respect of income earned from the investment, in whole or in part, of a relevant payment.
- She will be exempt from income tax, USC and PRSI in respect of this income.

Capital Gains Tax

- The relevant woman will be exempt from CGT in respect of gains accrued on the disposal of assets acquired:
 - With a relevant payment
 - With tax exempt income coming from a relevant payment
 - From the proceeds of assets acquired with a relevant payment or exempt income from a relevant payment.

It should be noted that the investment exemption applies only to the relevant woman and not her dependants.

Examples

Example 1:

Sarah, a relevant woman, receives a payment of €80,000 from an out-of-court settlement. She invests this payment in a savings account. She earns €800 in interest, which is paid without deduction of DIRT. Sarah passes away in 2023, and her estate distributes €30,000, being the balance of the savings account, to her daughter, Emily.

Income Tax, CGT and CAT Implications:

Initial Payment to Sarah: Sarah is exempt from income tax, CGT and CAT in respect of the out-of-court settlement payment of €80,000 she receives.

Investment of €80,000 by Sarah: Any income or gains arising from the €80,000 investment are exempt from income tax and CGT for Sarah up to the point of her death. Therefore, the interest income of €800 is exempt.

Distribution to Emily: The €30,000 inherited by Emily is subject to CAT and she will be entitled to the Group A threshold (€335,000 in 2023, €400,000 after 02/10/2024). Assuming Emily has not received any prior benefits in this group threshold, she will not have a CAT liability.

Investment by Emily: If Emily chooses to invest the €30,000, the exemption does not apply to any income and gains from this investment.

Examples

Example 2:

Anna, a relevant woman, was awarded €100,000 damages by the CervicalCheck Tribunal and invests it in purchasing a rental property. The total cost of the property is €200,000. €100,000 is financed by her payment and the balance of €100,000 financed with a mortgage. The annual rental profit is €15,000. Anna subsequently sold the property in 2024 for €300,000, making a gain of €100,000.

Income Tax, CGT and CAT Implications:

Initial Payment to Anna: Anna is exempt from income tax, CGT and CAT in respect of the payment of €100,000 she receives.

Income Tax implication of the investment of €100,000 by Anna:

Only the proportion of rental profit attributable to the investment of the damages award is exempt from income tax.

Total Investment: €200,000 (€100,000 damages award + €100,000 mortgage).

Percentage funded by damages award: 50%.

Exempt Rental profit: 50% of €15,000 = €7,500.

Taxable Rental profit: €7,500.

Examples

Example 2 continued:

CGT Implications on the sale of the property for €300,000:

Anna made a gain of €100,000 on the sale of the property. Only the proportion of gain attributable to the investment of the damages award is exempt.

Percentage funded by damages award: 50%.

Exempt Gain: 50% of €100,000 = €50,000.

Taxable Gain subject to CGT: €50,000.

Timeframes

Income Tax and CGT

- The exemptions from **income tax** and **CGT** apply to any relevant payment made since 2008.
- An individual can make a claim for a repayment of any income tax or CGT paid on the receipt of a relevant payment dating back to the 2008 tax year.
- The deadline for making a claim for a repayment of tax in respect of tax years 2008 to 2020 is **31 December 2025**.
- The standard 4-year time limit under section 865(4) TCA applies from tax year 2021 onward.

Tax Year (s)	2008 to 2020	2021	2022	2023	2024
Deadline for Making Claim	31 December <u>2025</u>	31 December <u>2025</u>	31 December 2026	31 December 2027	31 December 2028

Timeframes

Capital Acquisitions Tax

- The exemption from CAT re payments made under the CervicalCheck non-disclosure ex-gratia Scheme applies to payments made since 11 March 2019.
- The deadline to make a claim for repayment of CAT in respect of the CervicalCheck non-disclosure ex-gratia Scheme for payments made in tax years 2019 and 2020 has been extended to **31 December 2025**.
- The standard 4-year time limit under section 57(3) CATCA applies from tax year 2021 onward.

Tax Year (s)	2019/2020	2021	2022	2023	2024
Deadline for Making Claim	31 December <u>2025</u>	31 December <u>2025</u>	31 December 2026	31 December 2027	31 December 2028

Useful References

Tax and Duty Manual <https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-07/07-01-23B.pdf>

How to Submit a PAYE Income Tax return <https://www.revenue.ie/en/jobs-and-pensions/end-of-year-process/index.aspx>

Sensitive Cases Unit (SCU)

- 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.
- Through MyEnquiries, please include in the FAO section the following address - cervicalcheck@revenue.ie, to direct a query to the SCU.
- Business users can manage their tax affairs via ROS on www.revenue.ie and through MyEnquiries please include in the email section the following address - cervicalcheck@revenue.ie, to direct a query to the SCU.
- Alternatively contact the SCU by post/phone using the details below:
- Revenue Commissioners,
P.O Box 13274,
Letterkenny,
Co. Donegal
Telephone 074-9169494