

# OHT Guide - CGT for Estates in a Rising Property Market



Since 2012/2013, there has been a general rise in property prices in Ireland. The Daft Report on Irish Property (Q1 2018) indicates that the average asking price for Irish property reached its lowest point nationally in the third quarter of 2013 and has risen 50.3% since then. In Dublin, the bottom of the market was reached in the second quarter of 2012 and prices have risen by an average of 67% since that time.

## CGT For Estates

Any rise in value before the death of a property owner is not taxable as the assets will be “rebased” for CGT on a death. However if an executor sells property in the course of administration, a CGT liability will arise if the value of the property rises after the date of death. The starting point for Estate CGT is the date of death value (included in the Inland Revenue Affidavit) as this value is the base cost for CGT purposes.

## Charge to Both CAT & CGT

If there is a rise in value between the date of death and the valuation date for CAT, this rise in value will be subject to both CAT and CGT (an effective rate of 66%). Revenue have confirmed that both taxes are chargeable in such a case and there is no set-off available. Therefore, if there is a genuine rise in value between the date of death and the valuation date for CAT both taxes may arise.

Care should be taken to ensure that the rise in value is limited to the genuine rise in value over that period and not an inflated rise in value on the basis of a low value in the IRA.

*Example: A property is valued on the date of death between €380,000 and €400,000 by formal valuation. The property sells for €410,000 just after the Grant issues. The sales price is used as the valuation on the valuation date for CAT, which is the date of Grant as the property forms part of the residue of the estate. The residue is being taken by a nephew of the deceased.*

*If the low end of the valuation range was included on the IRA, then the CGT payable would be based on a gain of €30,000 and this rise in value is subject to both CAT & CGT.*

*Whereas if the higher end of the valuation range was included, then the CGT payable would be based on a gain of €10,000. The taxable value for CAT would still be €410,000 so a “double charge” to CAT & CGT still arises on the increase in value of €10,000. However, this increase is due a genuine movement in the property market between the date of death and the sale.*

## Property Valuation

In previous years there may have been a tendency to include a valuation at the lower end of the range of a property’s value for probate purposes to limit the CAT payable by beneficiaries. However, given the increase in property prices such conservative valuations are resulting in significant CGT liabilities for the Estate.

If a sale of property is likely to occur quite quickly following a death then the executors could consider delaying the filing of the Form CA24 until a sale price has been agreed so that an accurate valuation of the property at the date of death can be ascertained.

It may be clear following the sale that the date of death value was low. However, Revenue are generally unwilling to accept a corrective affidavit with a more realistic date of death valuation unless it can be shown that the original valuation was manifestly wrong, which can prove difficult.

## Conclusion

Given the CGT rate of 33% and the difficulty in filing a corrective affidavit to adjust a property value where there are CGT consequences, serious consideration should be given to date of death valuations for properties so as to not end up paying more tax than is necessary.

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**Caveat:** These notes are intended as a general guide only. OHT has endeavoured to provide an accurate commentary but the notes cannot cover all circumstances. OHT strongly recommends that formal tax advice be obtained before any steps are taken that may have a tax effect.