

Introduction to Capital Acquisitions Tax



Capital Acquisitions Tax or CAT is the Irish inheritance and gift tax that generally arises where a benefit is taken by or from a person living in Ireland. It also applies if a gift or inheritance includes Irish property.

The tax is charged on the “taxable value” of the gift or inheritance. The “taxable value” is the market value of the inheritance after deduction of certain costs and expenses and any consideration paid by the beneficiary.

There is no CAT between spouses or couples registered as a civil partnership.

Tax Free Threshold

CAT legislation makes provision for a tax free threshold below which no tax is paid. The tax free threshold depends on the relationship between the person giving the benefit and the person receiving it, and there are three categories:-

- Class (a) generally benefits from parents
- Class (b) generally benefits from close relatives (siblings and aunts/uncles etc.)
- Class (c) benefits from other persons.

Where a gift or inheritance is received from a parent the tax free threshold is class (a) which is €280,000 (in 2016). If the taxable value of the benefit is less than this amount no CAT is payable. The 2016 group (b) threshold is currently €30,150 and the 2016 group (c) threshold is €15,075.

However, it should be noted that the tax free threshold is cumulative, so all previous gifts or inheritances received since 05 December 1991, and falling into the same group threshold, reduce the tax free threshold available. CAT will be payable on the excess of the benefit over the available threshold and the current rate is 33% (in 2016).

CAT Pay & File Deadline

A return should be filed if the beneficiary has a CAT liability or if the value of the benefit exceeds 80% of the tax free threshold. It is also recommended that a return should be filed if a CAT relief is claimed. The due date for paying CAT, and filing the CAT return is set by the CAT year and the valuation date.

The CAT year runs from 01 September to 31 August in the following year. Where a valuation date falls within a

particular CAT year, the CAT pay and file deadline is the following 31 October.

The valuation date for a gift is the date of gift, but the valuation date for an inheritance can be more complex. It is generally the earliest of three possible dates:-

1. The date on which an executor is entitled to retain the subject matter of the inheritance for the benefit of the beneficiaries
2. The date on which the inheritance is retained for the beneficiary, or
3. The date of delivery to the beneficiary.

In many estate cases, Revenue will take the view that the executor is entitled to retain the assets of the estate from the date of Grant of Probate or Administration. However the position will be more complex if the asset passes automatically on the death by operation of law (such as when joint property passes by survivorship).

Example CAT Pay & File Deadline

The date of Grant of Probate is 10 January 2016. This is selected as the valuation date. That date falls within the CAT year 2015/2016, and therefore the CAT return is due for filing by 31 October 2016 and the CAT should be paid by that date.

Question

What happens if I do not pay CAT or file my return on time?

Answer

Interest and penalties may be charged by Revenue. Simple interest arises on unpaid CAT from the valuation date to the payment date and the standard rate is .0219% per day or part of a day (circa 8% per annum). In addition Revenue can levy a surcharge for late filing of a CAT return at a rate of 5% of the tax (max €12,695) if the return is up to 2 months late, and 10% of the tax (max €63,485) where the return is later. In addition Revenue can bring a court action with a possible penalty of €3,000 for a failure to file a return (although such actions are rarely taken).

Small Gift Exemption

Where a benefit is a gift (i.e. not passing on a death) a small gift exemption may be available. The small gift

exemption is €3,000 per donor per year. If the gift is higher in value the €3,000 exemption can simply be deducted from the value of the gift.

CAT Reliefs and Exemptions

CAT Dwelling House Relief (DHR)

If dwelling house relief is available no CAT arises on a gift or inheritance of a dwelling house.

A “dwelling house” is a building or part of a building, which is used or suitable for use as a dwelling. This includes grounds of up to one acre which are occupied and used with the dwelling.

For DHR to apply, a beneficiary must have occupied the dwelling as his only or main residence throughout the 3 years prior to the gift or inheritance.

If the dwelling on which dwelling house relief is claimed is a replacement property (having replaced another dwelling which the beneficiary was occupying as a main residence within 3 years of the benefit), then the beneficiary must have been living in the dwelling and the replacement dwelling for 3 out of the 4 years prior to the gift or inheritance.

The beneficiary must retain the dwelling house, and occupy it as a main residence for 6 years after the gift or inheritance (unless he is over the age of 55 at the date of gift or inheritance) or 6 out of the 7 years if the dwelling is replaced by another dwelling within the 6 year period. The beneficiary must not be beneficially entitled to any other dwelling house at the date of gift or inheritance.

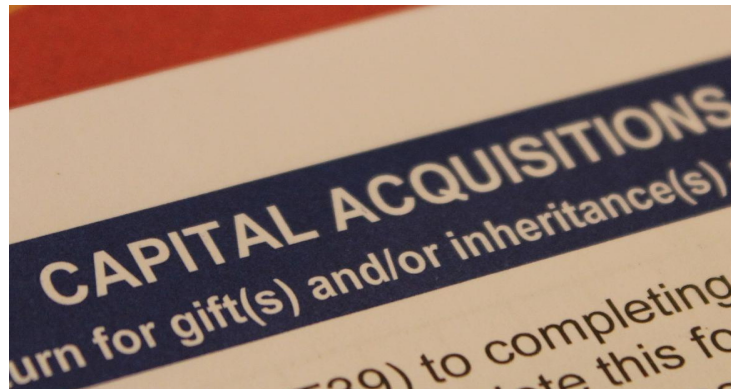
Additional conditions must be met where a gift is made (as opposed to an inheritance).

CAT Business Relief

CAT business relief enables the donee/successor to reduce the value of a relevant gift/inheritance by 90% of its taxable value.

In order for assets to qualify for business relief they must constitute relevant business property and the relief is not available if the value of the asset is derived “wholly or mainly” from investments. The assets must have been owned by the donor for a period of 2 years before an inheritance or 5 years before a gift.

The relief will be withdrawn if the relevant business



property is disposed of within 6 years of the date of gift/inheritance and is not replaced within a period of one year from the date of disposal.

If land which qualified for business relief has development value and is disposed of in whole or in part between the 6th and 10th anniversary of the benefit, the relief granted on the development value will be clawed back.

CAT Agricultural Relief

Agricultural relief applies to gifts and inheritances of agricultural property and reduces the taxable value of a gift or inheritance by 90% of the value of the agricultural property.

To avail of this relief a person must come within the definition of a “farmer” for the purposes of agricultural relief. A “farmer” is defined as an individual who can show that on the valuation date for the gift or inheritance, not less than 80% of the market value of the property to which he is beneficially entitled (after taking the gift or inheritance) is agricultural property.

Any relief given may be wholly or partly clawed back within 6 years of the gift or inheritance if the agricultural land is sold or compulsorily acquired and not replaced within a year of the disposal by other agricultural property.

If land which qualified for agricultural relief has development value and is disposed of in whole or in part between the 6th and 10th anniversary of the benefit, the relief granted on the development value will be clawed back.

The information above gives a brief outline of some of the tax implications of gifts and inheritances. However the tax issues can be complex and we would suggest that professional tax advice is sought if complex CAT issues arise. If you would like to consult OHT on CAT please email info@ohanlontax.ie or contact a member of the OHT
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Caveat: These notes are intended as a general guide. OHT has endeavoured to provide an accurate commentary but the notes cannot cover all circumstances so OHT strongly recommends that formal tax advice be obtained before any steps are taken that may have a tax effect.